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A MUNICIPAL PROGRAM

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National Municipal League

A

Municipal Program

REPORT OF A COMMITTEE OF THE NATIONAL MUNICIPAL LEAGUE, ADOPTED BY THE LEAGUE, NOVEMBER 17, 1899, TOGETHER WITH EXPLANATORY AND OTHER PAPERS

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PREFATORY NOTE

The Municipal Program adopted by a unanimous vote at the Columbus meeting of the National Municipal League in November, 1899, represents the logical outcome of six years of effort. At the time of the Philadelphia Conference for Good City Government, called in January, 1894, at the joint invitation of the City Club of New York and the Municipal League of Philadelphia, the feeling on the part of students of municipal government and those interested in its reform was largely one of hopelessness. The papers read at the Philadelphia meeting set forth a condition of affairs sufficient to fill the most stout-hearted with a feeling of dismay. Nevertheless, the thought was present to the minds of many that a careful study of municipal conditions and a frequent exchange of views would not only clear the atmosphere, but might eventually lead to the adoption of a plan of action upon which union for concrete work might be possible. Several of the speeches looked toward this end. Indeed, it was definitely proposed that there should be formed an organization which should have for its object the study of American municipal conditions as a precedent to the formulation of a program of action. One speaker outlined the thought as follows:

"One important lesson of this Conference must have been impressed on the minds of all who have taken part in it. The municipal reformers have for many years been duplicating

one another's work unnecessarily. We have had no means of intercommunication; we have not been able to share one another's knowledge. In this country of ours there are examples of almost every kind of political experiment. If we only knew of these experiments, if we had some means of interchanging our dearly bought knowledge, we should save ourselves a deal of time and futile effort. I look to the formation or growth out of this Municipal Conference, and as its most valuable result, of some kind of National Municipal League, or National Municipal Council, call it what you please, but a central body to which information can be sent, and which will make it its business to gather information on its own account; to revise, condense, and compare reports made to it, and to keep the local centers of reform throughout the country in touch with one another. If you have a good thing in Philadelphia, a point in your charter, which we should have in New York, we should know it. If New York's experience will prove of any avail to Chicago, Chicago should have the benefit of it, if only by way of awful example. We have no desire to try experiments that have been tried and have failed already."

Nevertheless, there was a feeling, shared quite as much by those who held this view as by those who were doubtful of its wisdom or expediency, that the time was not yet ripe for a forward step in the direction of a Municipal Program.

The following preamble and resolution, as expressive of the sentiment of the meeting, was adopted without discussion:

"WHEREAS, The elements brought together in this Conference should not be allowed to separate without providing some permanent agency for continuing its work and promoting a comparison of views, the exchange of experiences, the discussion of methods, and that mutual confidence and sympathy which adds so much to the strength and enthusiasm of fellow-workers in a great cause; it is therefore

"*Resolved*, That the President of this Conference is requested to appoint a representative committee of seven to prepare a plan for the organization of a National Municipal League, which shall be composed of associations formed in American cities, and having as an object the improvement of municipal government. Upon the completion of the plan and its approval by such associations, or as many of them as the said Committee may deem necessary, the Committee shall declare the proposed League to be fully organized, and prepared to enter upon its work."

Out of the Philadelphia meeting and of the Committee of Seven, appointed by the President thereof, in accordance with the foregoing resolution, grew the National Municipal League, formally organized in New York City in May, 1894. It at once entered upon its work, and proceeded to bring together through its affiliated membership the leading municipal reform organizations of the country; through its associate membership the leading students of municipal government; and through its annual conferences both these elements for a mutual exchange of views and a detailed study of the situation.

Thus far, conferences have been held in the cities of Minneapolis, Cleveland, Baltimore, Louisville, Indianapolis, and Columbus. The first four mentioned were devoted to a consideration of actual municipal conditions, and the papers presented bearing on the various phases of this subject formed an important contribution to the study of municipal government as it actually existed in the United States, and furnished a basis for municipal students in their work for the bettering of American municipal government.

The Louisville Conference, the fifth in the series, may in some respects be considered one of the most important held

up to that time. In the first place, the meeting will undoubtedly be remembered as marking the beginning of a new era in the work of the National Municipal League. Theretofore the meetings had been devoted to a statement of municipal conditions and to a discussion of the lessons which they taught. There had been no attempt, however, to formulate a program for adoption, or to construct a platform upon which municipal campaigns should be waged. No such effort had been made, because in the minds of those most actively identified with the League's management the time had not arrived when such a step was deemed either wise or advisable. Students of municipal government were not in a position to agree upon a statement of belief, mainly because they had not given to the general phases of the problem the necessary attention and study. Their particular experiences had been purely local, and they were ignorant of the conditions existing elsewhere.

The educational work of the League, its Conferences, and its published proceedings, had led the American people to a realization that there was an American municipal problem; that the question of good city government was something more than a merely local issue; that it was, perhaps, the most important single problem confronting the American people at the present time.

At Louisville the following resolution was adopted:

"*Resolved*, That the Executive Committee appoint a Committee of Ten to report on the feasibility of a Municipal Program which will embody the essential principles that must underlie successful municipal government, and which shall also set forth a working plan or system consistent with American industrial and political conditions, for putting such

principles into practical operation; and such Committee, if it finds such Municipal Program to be feasible, is instructed to report the same, with its reasons therefor, to the League, for consideration."

Under appointment by the Executive Committee, the following consented to serve on the Municipal Program Committee: Horace E. Deming, New York, Chairman; George W. Guthrie, Pittsburg; Charles Richardson, Philadelphia; Frank J. Goodnow, New York; Leo S. Rowe, Philadelphia; Albert Shaw, New York; and Clinton Rogers Woodruff, Philadelphia. The first step taken by the members of the Committee was an exchange of suggestions through informal personal meetings and correspondence. These were consolidated and embodied in a series of preliminary reports and criticisms which were laid before a session of the Committee lasting from the 7th to the 12th of July, 1897. At this meeting, after a full and detailed discussion, the views of the Committee were reduced to the form of definite propositions, tentatively adopted, but subject to further examination and revision. A sub-committee was then appointed to elaborate these propositions into drafts of proposed constitutional amendments, and a general Municipal Corporations Act for further examination, criticism, and suggestion. The result of the work of the sub-committee, after receiving the critical comment of the other members of the General Committee, was embodied in a draft of proposed Amendments and an Act, and submitted to a meeting of the full Committee, held March 25 and 26, 1898. At this meeting a sub-committee was appointed to prepare a revised draft, in accordance with the conclusions reached as a result of the joint deliberations, and work up to this point. The revised draft and the comments

and suggestions of each member of the Committee were finally incorporated, with the unanimous approval of the Committee, in the draft submitted to the League at its Indianapolis meeting in November, 1898.

In presenting this preliminary report, the Committee took occasion to say that it did not

"Apologize for presenting this outline sketch of its labors to fulfill the commission intrusted to it. The fact that a body of men of widely divergent training, of strong personal convictions, and who approached the matter in hand from essentially different points of view, should and did come to unanimous agreement that a Municipal Program was feasible and practicable, and had conferred, and by comparison of opinion were able to embody the result of their agreement in definite propositions, is a hopeful augury that the general body of the League, after a full opportunity for discussion, criticism, and interchange of views, can and will adopt either the Committee's propositions, or some improvement upon them. The Committee therefore presents its report with the confident expectation that after sufficient time and opportunity shall have been given for such further consideration which the importance of the subject demands, the members of the League will be able formally to present to their fellow-citizens in the United States a definite Municipal Program that will embody the essential principles that must underlie successful municipal government, and which shall also set forth a working plan or system, consistent with American industrial and political conditions, for putting such principles into practical operation.

"The resolution of the League under which the Committee acted involved a task for which few, if any, precedents existed. The Committee was working to crystallize the result of the experiences of American and European cities, and at the same time to make the results of its labors practically ap-

plicable to our present conditions. Under such circumstances it became necessary to proceed with care, caution, and conservatism. The Committee keenly felt the necessity of bringing any system they might recommend into organic relation with the traditions and accepted political ideas of the American people."

At the request of the Committee, four of its members undertook to discuss the more important underlying principles that controlled the preparation of the amendments and act, in special papers which were submitted to and approved by the several members of the Committee, and constituted an essential part of its report. These were: "The Municipal Problem in the United States," Horace E. Deming, Esq.; "The Place of the Council and of the Mayor in the Organization of Municipal Government; The Necessity of Distinguishing Legislation from Administration," Dr. Frank J. Goodnow; "The City in the United States: The Proper Scope of its Activities," Dr. Albert Shaw; "Municipal Franchises," Mr. Charles Richardson. These four papers were read at the Indianapolis Conference, and published in its proceedings as part of the preliminary report of the Committee. These principal papers were in turn discussed in subsidiary papers by a number of students of the municipal problem, all of which were published in the proceedings of the Conference at Indianapolis. At this meeting the following resolution was adopted:

"*Resolved*, That the report of the Committee and the criticisms and suggestions which have been made at this Conference, or which may hereafter be submitted in writing, shall be referred back to the Committee, with instructions to complete their work and to report a Municipal Program for action at the next meeting of the League; and that the said

Committee shall have power to fill vacancies and increase its number."

In accordance with this action the Committee took into consideration the various suggestions and criticisms that had been offered through the medium of correspondence with a large number of persons throughout the country interested in municipal government, and through correspondence and frequent personal intercourse between the individual members, and prepared an official draft, which was submitted to a meeting of the Committee held in New York City in November, 1899, and formally adopted for presentation to the League at Columbus.

In connection with the final draft, the Committee, following the plan that had been pursued at the Indianapolis meeting, submitted the following papers as part of the report of the Committee, and as explanatory of its principal features: "Political Parties and City Government Under the Proposed Municipal Program," Dr. Frank J. Goodnow; "Public Opinion and City Government Under the Proposed Municipal Program." Horace E. Deming, Esq.; "Public Accounting Under the Proposed Municipal Program," Prof. L. S. Rowe.

These papers, like those of the preceding year, were submitted to the criticism of the other members of the Committee, and had received their approval and, like the papers read at Indianapolis, constituted an essential part of the Committee's report. Following still further the Indianapolis precedent, these principal papers were in turn discussed at length in supplementary papers, prepared in advance at the invitation of the Committee.

The volume herewith presented under the title, "Municipal Program," represents the result of two years of unremitting and painstaking endeavor to present, in accordance with the original resolution, "a working system consistent with American industrial and political conditions, and embodying the essential principles that must underlie successful municipal government in this country." The proposed Constitutional Amendments and the proposed Municipal Corporations Act constitute the Municipal Program which was unanimously adopted at the Columbus Conference. These two documents, together with the leading papers presented at the Indianapolis and Columbus meetings, and a "Summary of the Program," prepared by Prof. L. S. Rowe, constitute the report of the Committee. In addition to these papers the Committee have included in the book which is now presented to the public a paper by Hon. Bird S. Coler, Controller of the City of New York, on "The Power to Incur Indebtedness Under the Proposed Municipal Program"; a paper by Dr. Delos F. Wilcox entitled, "An Examination of the Proposed Municipal Program," both of which were read at the Columbus meeting; and a brief historical sketch of "Municipal Development in the United States," prepared by Dr. John A. Fairlie, of Columbia University, at the request of the Committee.

THE COMMITTEE.

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MUNICIPAL DEVELOPMENT IN THE UNITED STATES

JOHN A. FAIRLIE

I. THE COLONIAL PERIOD

American municipal government has its historical origin in the chartered boroughs or municipal corporations[1] established in several of the English colonies during the seventeenth and eighteenth centuries. Records show the creation by charter of twenty such corporations; but of these, two had merely an ephemeral existence,[2] and three others were of slight importance during the colonial period.[3] Of the active boroughs, the first in time was New York, which dates its civic existence from 1653, became an English municipal corporation in 1665, and received its first charter in 1686. Albany received its charter in the same year as New York; the first recorded charter of Philadelphia was granted in 1691; four smaller boroughs were incorporated in Pennsylvania,[4] and five in New Jersey;[5] while in the Southern States there were Annapolis in Maryland, and Norfolk, Williamsburg, and Richmond in Virginia. The latest charter in colonial times was that of Trenton, N. J., granted in 1746.

These charters, granted by the provincial governors, were on the same legal basis as the royal charters to English boroughs, and the earlier theory seems to have been that the municipal corporations were not subordinate to the assemblies. The form of or-

[1] The word borough is used as a generic term for the municipalities of the colonial period to emphasize their direct connection with the English borough. For later periods the present American custom is followed by the use of the word "city."

[2] Agamenticus (1641) and Kittery (1647) both in the Province of Maine.

[3] Germantown, Pa., Bath, N. C., and Trenton, N. J.

[4] Germantown, Chester, Bristol, and Lancaster.

[5] Perth Amboy, New Brunswick, Burlington, Elizabeth, and Trenton.

ganization provided resembled in its general features the English municipal organization of the same period. The principal authority was the common council, composed of the mayor, recorder, aldermen, and assistants, or councilmen. These acted as a single body, a quorum requiring the attendance of the mayor and a specified number of both aldermen and councilmen. The mayor and aldermen had certain judicial functions in addition to their duties as part of the common council, which had control of all matters of local administration.

In one respect, most of the American colonial boroughs differed from the prevailing English system. Only in Philadelphia, Annapolis, and Norfolk was the governing authority made a close corporation. In these places the aldermen and councilmen held their positions for life, and vacancies for aldermen were filled by the corporation—*i. e.,* by the common council—and for councilmen by the mayor, recorder, and aldermen. In all the other boroughs the councilmen—and except in Perth Amboy and Trenton, the aldermen also—were elected by popular vote under a franchise which everywhere included all of the well-to-do classes and generally a large proportion of the residents, though in no case was manhood suffrage established. Elective aldermen and councilmen were chosen for one year terms, except in Elizabeth, where the term was three years, and Trenton, where, strangely enough, it was for life.

The mayor, however, was in no case chosen by popular vote. The close corporations had, as in English boroughs, the power of electing their mayors from the existing aldermen, and the elective council in Elizabeth had the same authority. In the other boroughs, where the members of the council were elected, the mayor was regularly appointed by the governor of the province,[1] a former

[1] During the Leisler troubles in the province of New York, mayors were elected by popular vote in the cities of New York (1688 and 1689) and Albany (1689); but appointment was restored in 1690.

alderman being frequently selected. Whether elected or appointed, the mayor's term was in all cases a single year; but in practice reappointments were frequent, and during the latter part of the colonial period the mayors of New York and Albany generally held the position continuously for ten years.

The special charter powers of the mayor were not of great importance. He had no power of appointment, unless delegated by the council, and he had no veto over the acts of the council—in Philadelphia he did not even have a vote. But he presided at all meetings of the council, his presence being necessary to constitute a quorum; and he was charged with executing the ordinances of the council. In New York and Albany he controlled the licensing of taverns, and he frequently held *ex officio* minor offices. These conditions tended to center the administration to a considerable degree in his hands, while his influence in municipal affairs was further increased by the fact that he was usually a man of much experience in the affairs of the corporation, and that in practice he held office for a number of years. Thus even during the colonial period the mayor became something more than a dignified figurehead, and was a real force in the municipal government.

The functions of these colonial boroughs, like those of the English municipal corporations, included judicial, legislative, and administrative duties. The judicial functions were comparatively of greater importance in the municipal government than at present. The mayor, recorder, and aldermen were each justices of the peace during their term of office, and as such had the usual summary jurisdiction over petty criminal and civil cases. In addition to this, the mayor, recorder, and aldermen of each borough sitting together formed a local court of record, with stated sessions for the trial of more important cases; and in some cases the same officials

were also members of the county courts. The councilmen or assistants had no share in the exercise of these judicial functions.

The legislative powers of the municipal corporations were limited to the authority to establish local ordinances, not repugnant to the laws of England or the assembly of the province. These were mainly police ordinances for the maintenance of order and the prevention of nuisances, such as rules against fast driving, regulating the cleaning and paving of streets by the householders, and requiring precautions to be taken against fires. But there were also ordinances regulating business, by fixing the prices of food, and (in Albany) regulating trading with the Indians; while others attempted to guard the morals of the community, by requiring the observation of the Lord's Day, and (in Philadelphia) forbidding theatrical performances.

The administrative powers of the colonial corporations, like their legislative authority, were almost exclusively over matters of special interest to the small urban communities, and seldom included any of those matters for which there was a general system over the entire province. Thus the management of the militia, the administration of the poor laws, and the assessment of the taxes levied by the assemblies were in no cases subjects of municipal action. The borough authorities were all empowered to hold markets and fairs; several of them were authorized to establish ferries; and New York, Albany, and Philadelphia controlled the local docks and wharves. In the eighteenth century, other local needs became pressing in the larger places, and as the charters conferred no authority on these matters, the corporations found it necessary to secure special grants of power, which, however, came now not from the governors but from the colonial assemblies. Under these statutes, adding to their chartered powers, the more important towns

entered on some new lines of activity—constructing streets and drains, purchasing fire engines, and toward the end of the colonial period providing street lamps and establishing a night watch. In Philadelphia, surveyors for regulating the construction of party walls were authorized as early as 1721.

These grants from the assemblies to the municipalities, while increasing the actual functions of the latter, tended to change the relative status of the two authorities, making the municipalities subordinate to the assemblies, though as yet it was not recognized that a colonial assembly could pass an act directly contrary to a charter provision. The prime cause of the change was the fact that the municipal corporations had in no case any charter power of taxation, and when they desired to enter on undertakings involving taxation they could not proceed until authority to tax was secured. The colonial legislatures do not seem to have hesitated in granting the desired authority whenever needed, and the local authorities were probably not seriously hampered in their activities by the necessity of securing special grants. By the close of the colonial period all of the more important municipalities had received authority to levy certain taxes. But as yet the power was granted only for specific purposes, usually with a strict limitation of the amount of each tax, and often restricting the levy to a certain number of years.

Thus even during the colonial period we may see the beginning of a distinctive American development differentiating the municipalities in the colonies from those in England. Close corporations were the exception; the mayor was already an active and the most important official in the city government; central control over the municipalities existed from the first in the governors' power of appointing mayors, while the way was paved for a more active

control through the special legislation of the assemblies in response to the demand of the municipalities for larger powers than those conferred in their charters.

Several urban districts in the colonies remained without the special organization or charter of the English borough. Boston and other New England urban centers found the town meeting system of the rural communities sufficiently elastic for municipal purposes. Under this system, the " freeholders and other inhabitants assembled " in town meeting were not merely electors; they constituted a deliberative body on all questions of town government. They discussed, amended, adopted or rejected orders and by-laws; they determined the purposes for which public money should be expended, down to the smallest details, and they fixed the exact amount to be raised by taxation. The nearest analogy to a mayor was the moderator of the town meeting, but his duties were purely those of a presiding officer. The principal administrative work was performed by the prudential or executive committee, known as the selectmen; the overseers of the poor, and later the school committee, were also committees of the town meeting, while there was in addition a goodly number of minor and unsalaried offices.

As Baltimore and Charleston became sufficiently populous to demand special measures, these were decided on by the assemblies of the respective colonies, and carried out by legislative commissions. The Baltimore Board of Town Commissioners, of seven members named by the assembly in 1754 for life, directed the administrative affairs of that growing port. Possibly this legislative action was preferred to charters of incorporation from a royal governor because of the growing opposition to the latter official in the years preceding the war for independence. It

is certainly significant that no municipal charter was issued in any of the colonies after 1746.

II. 1775-1820.

The revolt of the colonies from Great Britain and the new State governments brought about several changes in municipal government. The substitution of elected for appointed governors changed the significance of the appointment of mayors, but there was no immediate attempt to transfer the selection of such mayors from the State to the locality.

Of more importance was the change in the charter-granting power. Immediately after the Revolution there appeared a considerable number of municipal charters: In 1783, Charleston, S. C.; in 1784, New Haven, Middletown, New London, and Norwich, Conn., Newport, R. I. (temporarily), and Nashville, Tenn.; in 1785, Hudson, N. Y. The charters of incorporation for these were not, however, issued by the State governors, but, as was to be the universal rule in the United States, by the State legislatures, in the same manner as statutory acts. By this change these charters could not claim the privileges of a special grant which could not be violated; they were simply legislative statutes, and as such liable to be altered, changed, or revoked by subsequent statutes.

There does not seem to have been much discussion on this change in the charter-granting power; the way had been prepared by the frequent additional grants of authority by colonial assemblies to corporations chartered by executive authority, and the tendency of the new State governments was so strongly in favor of the legislature and against the executive that the new custom was established without question.

In the organization and powers provided for, these first legislative charters followed very closely the charters and powers of the existing municipalities, and there are no important developments in municipal organization or functions. It is not surprising to learn that none of the new cities were to be governed by close corporations, and the principle of an elected council was now firmly established as a fundamental rule in American municipal government. Even the close corporations of the colonial days were not permitted to continue. In 1787, the Virginia legislature passed an act declaring that "the former method of electing common councilmen for the borough of Norfolk is judged impolitic and unconstitutional,"[1] and providing for election by the freeholders and inhabitants of the borough qualified to vote for burgesses to the assembly. In 1789, Philadelphia received a new charter from the State legislature, which likewise provided for a popular election of the municipal council. These statutes are also significant as marking the complete legal supremacy of the legislatures over the municipalities, since not even the existing charters are recognized as barring any measure the legislature might feel disposed to enact.

In the closing years of the eighteenth century there was a new series of municipal charters. Schenectady, N. Y., became a city in 1795, Baltimore in 1797, Savannah and Augusta, Ga., in 1798. The Baltimore charter and an amendment to the Philadelphia charter passed in 1796 mark the introduction of the bicameral system into municipal government. In Philadelphia the legislative power was vested in select and common councils, both elected on general ticket, in neither of which the mayor, recorder, or aldermen found a part. In Baltimore one house of the municipal council was composed of two members from each of the eight wards, elected annually; while

[1] Ch. 72. Hening; Statutes of Va., XII, 602.

the other house was elected by a miniature electoral college, made up of one elector from each ward, chosen by popular vote. After 1808, the members of the second branch were elected directly. The mayor of Baltimore was also chosen by the miniature electoral college, even after this method was abolished for the members of the second council, and the machinery of the federal government was still further imitated by giving the mayor a veto over the acts of the city council. The parallel was not, however, strictly followed in the matter of appointments, for while the final selection was by the mayor, he was restricted to two candidates for each office nominated by the council. All of these points mark the beginnings of important developments in American municipal organization.

During the first two decades of the nineteenth century we find no further important changes in municipal organization. Indeed, during these years there were but few new municipal charters issued, and so far as these departed from the earlier type, it was by the adoption of some of the innovations already noted. In 1805, the territorial legislature of Louisiana issued to New Orleans a charter of the American type, which replaced the earlier French and Spanish political machinery. This charter provided for a single board of elected aldermen, with a mayor and recorder appointed by the governor of the territory, and in other respects also followed the earlier charters. The first city charter of Detroit, enacted in 1806, but which remained in force only until 1809, contained some of the new features of the Baltimore charter. The city council was made bicameral—each chamber having three members—and the mayor was given an absolute veto power. But the mayor was to be appointed by the territorial governor, as in New Orleans, and most of the colonial charters, while the mayor was to appoint all the city officers except the registrar. The first

charter of Pittsburg (1816) followed very closely the Philadelphia government as reorganized in 1796, providing for a bicameral council, which elected the mayor.

The net results of municipal development during the first forty years after American independence was accomplished were: (1) The abolition of the close corporations and the definitive establishment of the rule that each American municipality should have a locally elected council; (2) the unmistakable legal supremacy of the State legislatures over the municipal charters and the powers of the municipalities; (3) the introduction—as yet in a very few places—of the bicameral council system and the veto power of the mayor.

The operations of municipal governments in the United States had up to this time undergone no marked transformation from those of the colonial period. With the growth of the larger cities there was, of course, a gradual increase in the amount of public activity; but this did not mean the assumption of new functions, and even in the largest cities municipal government stood for vastly less than in cities of half their population to-day. New York City, which in 1810 had a population of nearly 100,000, expended in all but $100,000; while to-day cities of 100,000 have an annual expenditure of from $1,000,000 to $2,000,000. In the country as a whole, municipal problems were even less important. In 1820 there were but thirteen towns in the United States with over 8,000 population, and their combined population was less than five per cent. of the entire population of the country.

The petty housekeeping of a few small communities which in the aggregate composed but an insignificant part of the entire country could not become a matter of intense public interest. It is not surprising, therefore, that under these circumstances municipal

elections should become involved in the more active party struggles of the times. In New York City, at least, the first conflicts on national politics were mirrored in the local elections, and the spoils system was early established as a principle of municipal office holding. In the harmonious federalist days, Richard Varick had held the office of mayor for twelve years, following the precedents of the colonial times. But with the party strifes which set in at the beginning of the century the appointment of mayor was considered at Albany as a legitimate spoil, and as often as the political complexion of the Council of Appointment changed New York had a new chief executive. From 1801 to 1823 the mayor was changed nine times. The local elections, although held in April, were occasions for bitter contests between the rival parties; frequently almost the entire membership of the council would be changed, and when in 1804 the Democrats first secured control of the council a caucus of the majority promptly voted "unanimously" to remove all but one of the city officers.[1]

III. 1820-1850

The new constitution for the State of New York, adopted in 1821, made an important change in municipal government in that State. Heretofore the mayors of New York cities had been appointed by a State authority, following the system laid down in the first charters of New York City and Albany; but henceforth they were to be elected by the common council in each city. This method, as has been noted, was already employed in other American cities, more especially in those incorporated since 1780. But the adoption of this system in the five cities of the largest State marks an important step in the transition from State appointed to

[1] Durand. *Finances of New York City.*

locally chosen mayors, and from this time we may date the definitive adoption of the latter method as a principle of American municipal government.

Three new municipal charters enacted within the next three years went a step further, and inaugurated the novel principle of electing city mayors by popular vote. These were the charters of Boston and St. Louis, issued in 1822, and that of Detroit in 1824. In none of these instances did the popularly elected mayor have any materially enlarged powers, either in the way of appointment or of vetoing council ordinances; and in some respects he might have less influence than a mayor chosen by the council, since the latter must have had the confidence of the council to secure his position. But the new method of selection served to give the mayor a more distinct and independent place in the municipal government, and prepared the way for the larger powers to come, when council government became unsatisfactory. It is interesting to note that the second mayor of Boston—Josiah Quincy—did, by his personal influence and industry, secure the concentration in his own hands of the control and responsibility for the administration of the city, but this was only a temporary foretaste of the mayor of later times. The principle of electing the mayor by popular vote was, however, quickly apprehended and adopted both in charters for newly created cities and for older municipalities. The mayor of Philadelphia was made elective in 1826, the mayor of Baltimore in 1833, and the mayor of New York in 1834.

Some other features of the charters of Boston, St. Louis, and Detroit should be noted. Boston adopted the bicameral system, apparently not so much in imitation of the Federal government as an adaptation of the previous town government—the common council acting as a representative body for the town meeting, and the mayor

and aldermen taking the place of the selectmen. It was probably also on account of this development from town government that the mayor and aldermen had no judicial functions as in other municipalities, a rule which has been followed in subsequent Massachusetts charters. St. Louis and Detroit had single-chambered councils, in which were vested the powers of the municipality.

In 1830 a new charter for the city of New York, prepared by a popular convention and ratified by popular vote, went into effect. This separated the council into two branches, " for the same reason which has dictated a similar division of power into two branches, each checking and controlling the other, in our general government."[1] It also gave the veto power to the mayor, and provided that the executive business of the municipality should be performed by separate departments, organized and appointed by the council. This last provision proved to be too indefinitely worded to be enforced, and although departments were formally organized, the municipal administration remained as before almost wholly in the control of the council committees. The change to an elective mayor, already noted, was also recommended at this time, but as a constitutional amendment was required for this purpose, the change was not effected until 1834.

The rapid growth of cities through the development of transportation methods is seen in the record of new municipal charters enacted about this time. Forty of the cities which now have a population of 30,000 or more received their first charter in the two decades from 1830 to 1850. Nine of these were in New England, where the development of manufacturing centers had increased population beyond the capacity of the town meeting; five were in New York State, the same number in Ohio, four in Illinois, and almost every State was represented by one or two cities. With

[1] Address of the Convention of 1829.

the multiplication of cities at such a rate, it becomes impossible in this outline to note even the most important features of the municipal organization for each, and a few examples must be taken as illustrations of the development at this and subsequent periods. The charters of Cleveland (1836), Chicago (1837), and Milwaukee (1846) may be taken as representative of the new cities established during the two decades before 1850. Each of these charters provided for a mayor elected by popular vote, and that principle may now be considered as definitely established in the United States. In Chicago and Milwaukee the council consisted of aldermen only, elected by wards; in Cleveland there were councilmen elected by wards, and also aldermen elected on general ticket, but these sat as a single chamber; showing that the bicameral system—although adopted in St. Louis in 1839—was still the exception in American municipal government. The municipal administration in all of these cases was under the control of the council, which determined the policy of the city, appointed the executive officers, and controlled their action through council committees.

The development in municipal organization during the period from 1820 to 1850 consisted (1) in the change in the manner of electing mayors, from election by the councils to election by popular vote; and (2) in the limited extension of the bicameral system of council organization. It should also be noted that by the close of this period the property qualifications for the municipal suffrage had in most cases disappeared.

The functions of municipal governments had been somewhat enlarged during this period, especially in the larger cities. New York had constructed the Croton aqueduct, the first large municipal undertaking in any country to furnish an abundant water supply.

Several cities had established a small and ill-organized body of day police, in addition to the night watch. Large volunteer fire companies had been organized in most of the important towns, and were furnished appliances and aided in other ways by the municipal authorities. In some cases municipal councils now appointed the school boards and poor relief officials, but even in such cases these continued to be regarded as authorities distinct from the municipal government.

These additional activities necessarily meant a larger amount of municipal taxation than had existed in the early part of the century, and the necessity for a regular system of municipal taxation was recognized in most cases by a general grant of the taxing power for any of the enumerated powers of the municipal government, in place of the former special authorizations for specific amounts for specified purposes. The general grant was often limited to a certain per cent. of the assessed valuation of the city, but this limitation was sufficiently flexible to allow for some increase of taxation with the development of the cities, though resort still had to be made to the legislature for further authority whenever a city wished to go beyond the powers enumerated in the charter. For New York City, however, this change to a general authorization was not yet made; each year a special act was passed by the State legislature empowering the city to collect by taxation specified amounts for the appropriations passed by the city council, and although, up to this time, these annual acts had been largely formal, and passed with little or no change from the bills submitted by the city, the procedure did not give the city full liberty of action.

But even where there was no limitation of the amount of the taxes which a municipality could levy, there was always the re-

striction that taxation could be used only for the specific purposes enumerated in the charter and special legislative acts. Municipal development along the new lines of activity made necessary by rapid growth was thus often seriously hampered by the need for securing special legislation authorizing the city to undertake additional functions. Even if the legislatures had enacted such special legislation only at the expressed desire of the municipal authorities the constant necessity for new legislation was bound to transfer the real decision on all important questions of municipal policy from the city councils to the State legislatures. In fact, too, the legislatures found it easy to pass the step from special legislation at the desire of the municipality to special legislation not asked for, or even strongly opposed, by the municipality; and in such cases the substitution of State for local determination was clearly visible. The extent of this special legislation by the middle of the century may be indicated by the record of the Ohio legislature, which, in the session of 1849-50, passed 545 special and local acts.

The general tendency of State legislation to enter into great detail in all statutes still further tended to remove all discretionary powers from the local officials, and leave them simply administrative duties to perform. This detailed statutory regulation was, perhaps, to be expected in regard to matters of general State administration, such as poor relief, education, and taxation, which were now often under the control of the municipal authorities. Established in this sphere, it was easy to follow the same rule in legislation for purely local matters in the cities, and especially in the statutes passed without the approval of the municipal authorities in order to insure that the latter would not evade the statutes; while in the case of cities controlled by another political party than

that which controlled the State legislature there was a further motive for the most strict and detailed provisions in all the legislation for such cities.

It is not said that these results had worked themselves out on any large scale before the middle of the century. It is after, rather than before, the year 1850 that much special legislation came to be enacted without regard to the local authorities, and hence to be considered as an interference with the local government. But even before 1850 something of this sort had been done, and the steps in the process are worth noting in the general development of municipal government.

IV. 1850-1880

By the middle of the century the development of urban communities in the United States had become very marked. In 1820 there had been thirteen towns of over 8,000 population, with an aggregate of less than half a million; in 1850 there were eighty-five towns of this class, aggregating nearly three millions. The percentage of urban population had increased in the three decades from 4.93 to 12.49. The more important centers had now reached the dimensions of large cities: New York had over half a million, Philadelphia over 400,000 in the urban district, while Boston and Baltimore were the centers of urban districts of over 200,000 each. This expansion of urban population was of its own force making municipal conditions and municipal government a larger and more important matter; but there now appeared a decided tendency toward the adoption of new municipal functions and the rapid development of former activities which accentuated the importance of municipal government to a marked degree. Along with this development there went necessarily a great increase in the amount of

special legislation for cities, which in turn was also added to by changes in forms or organization, and by the operations of partisan motives and the desire for the spoils of office.

Of the advance in municipal functions, we may note the organization in New York of the first disciplined police force for any American city in 1845, and the establishment of a paid fire brigade in the same city during the same year; the construction of the Cochituate waterworks for Boston, begun in 1846; the municipal water supplies of Chicago (1851) and Baltimore (1854); and the establishment of large public parks in New York, Philadelphia, and Baltimore. Similarly, in other important cities, disciplined police forces, paid fire departments, and extensive waterworks and sewer systems appeared; while the scope of former municipal activities, such as street paving, schools, and poor relief, was rapidly increased, as indicated by the rising tide of expenditures, taxation, and municipal debt.

We have already noted slight tendencies toward a change in the position of the mayor in the municipal organization from the earlier colonial period. We have now to observe in connection with these changes in municipal functions and in complete revisions of several important municipal charters soon after the year 1850, other more important changes in municipal organization, which decreased the powers of the council, and threw much of the municipal administration into the hands of a series of independent boards. Something in this direction was inevitable with the increase in the mass of municipal work, which made detailed supervision of all by any single authority impossible. Even where the council remained nominally in complete control, the actual administration was bound to fall more and more away from the body as a whole to its committees, each of which would become very largely independent.

But this inevitable tendency was powerfully strengthened by more direct statutory measures.

In the first place, the special statutes providing for the extension of municipal action entered into greater and still greater detail of means and method, thus making the State legislatures the real policy determining power for the cities, and depriving the local legislative body of its functions of a legislative character. In the second place, the administration of many municipal functions was conferred by statute directly on special departments, partly or wholly independent of the city council. Previously the school and poor-relief authorities had often been more or less independent of the council, their functions being considered distinct from the strictly municipal activities; but the distinction between two classes of functions was no longer observed, and all kinds of local administrative offices in the cities became largely independent of the council. The new charters to New York (1849) and Cleveland (1852) perhaps went farthest in this direction. In New York there were provided a dozen executive departments, the heads of which were chosen by popular vote; in Cleveland, the mayor, city marshal, civil engineer, fire engineer, treasurer, auditor, solicitor, police judge, superintendent of markets, and, later, the board of waterworks trustees and three street commissioners, were all elected. In Chicago the water board, established in 1851, was so thoroughly independent of the council that it had its own borrowing power. Detroit entered on its period of government by independent elective boards in 1857.

The new charters to Philadelphia and Boston in 1854 did not take any aggressive steps in this direction, but both of these, and the other important charters mentioned, all agreed in giving to the mayor a limited veto power over council ordinances. A few years

later we find important instances of the mayor having the power of appointing the heads of executive departments, subject to the consent of the council, or of one chamber of a bicameral council. This system was established, in Chicago and New York in 1857, and in Baltimore, for some offices, in 1858. The mayor did not have complete control or responsibility under this method, but the change was in the direction of adding to the mayor's power rather than restoring the former system of council government.

The precise reasons for the movement away from council government are not easy to ascertain. The general movement toward democracy and popular election, which was at its height about 1850, probably was one force leading toward elective officials; the contemporaneous reorganization of municipal functions was rather an opportunity than a cause for the change, yet there could hardly have been such a general movement if council government had been entirely satisfactory. Certainly, after this date, there is much complaint against the councils in the discharge of the powers still in their control. In some cities the principal authority remaining was that of granting franchises and leases and entering into contracts—an authority of no little importance at that period of street railway beginnings and the rapid extension of gas lighting. But in granting such franchises the councils often neglected the interests of the city to an amazing degree, and charges of jobbery and corruption were frequent. In New York four important street railways were chartered in 1851-52, without limitation as to the duration of the franchise, or compensation for the use of the streets. The New York example was most generally followed by other cities, except Baltimore, where the farsighted Mayor Swann, by the hint of his veto power, secured an agreement for the payment to the city of one-fifth of the gross receipts of the street railway chartered in 1860.

Toward the end of the decade 1850-60 we find further important measures in the legislative control of large municipalities, marking in some respects the highest degree of such control. These measures provided for special legislative commissions or boards, appointed by State authority, to conduct certain important branches of municipal administration. The first action of this kind was in New York. In 1856, the legislature, in passing the annual tax law for New York City, had for the first time made changes in the bill submitted by the municipal authorities. The next year a State park commission for New York City, and a State metropolitan police board for New York, Brooklyn, and adjoining counties, were established, supplanting the city departments; while the control of the judicial administration of New York County (co-terminous with the city) was placed in the hands of a board of supervisors, elected by a system which gave the minority party half of the board. In 1860, the Maryland legislature provided for a State police board for Baltimore; in 1861, the Illinois legislature reorganized the Chicago police force, and placed it under a board, the first members of which were appointed by the governor. In 1865, the Detroit police was placed under a State commission, and the New York legislature added to its former legislation for New York City by placing the fire brigade, health department, and licensing of liquor saloons under State commissions. In 1870 the Pennsylvania legislature created a State commission to construct a new city hall for Philadelphia. In all of these instances the State commissions had not only the control of the detailed administration, but determined the general policy to be carried out in their department (so far as the statutes left any room for discretion), and when in New York City the city council attempted to limit their activity by refusing appropriations the legislature restored the

amounts asked for to the city tax law, and directed the mayor and controller to make the payments. So far had legislative action gone that during the late sixties the council of New York City had control over less than one-sixth of the expenditures of the city.

This system of government of municipalities by legislative commissions was enacted on the score of mismanagement and maladministration on the part of the local authorities, and in many cases such charges had no small foundation in fact, so that the situation would have justified some form of State control, at least over those matters in which the cities were but the administrative agents for the execution of State laws. It is by no means so clear, however, that the method of control provided did secure an impartial and effective check on wrongdoing; while it is certain that the prevailing motives for the measures taken were too often partisan in character, and the administration of the State commissions was, in consequence, directed as much toward securing party advantage as efficient government. The situation in Chicago may be taken as illustrative: In 1861, the Republicans controlled the State government, and the new board of police appointed by the governor was in consequence composed of Republicans. In 1863, the Democrats gained control of the State, and passed an act reducing the term of the police commissioners from six to three years, by which action the board became evenly divided between the two parties, while the Democrats hoped ultimately to obtain complete control. But in 1865 the Republicans were again in power in State, city, and county, and new acts were passed, restoring the six-year term to the police commissioners, providing that new commissioners should be elected by the voters of Cook County—which was less liable to become Democratic than the city—and placing the fire department under the control of the board of police.[1]

[1] M. R. Maltbie; *The City of Chicago.*

The real explanation of most of this partisan legislation is found in the existence of the spoils system, whereby public administrative offices of all kinds were used as rewards for party workers, and were distributed to strengthen the party rather than to secure efficient administration. With the expansion of municipal activity, the number of positions in the large cities available as rewards to the party which controlled the local government made each of the large cities a strategic point, the possession of which was of great importance to the national parties in their struggle for the control of the federal government. This situation was responsible in large part for the creation of State commissions and much of the detailed legislation for cities. It was also responsible for the complete subordination of local to national questions in municipal elections, which was made more effective in many cases by making local elections coincident with national elections, whereas formerly local elections had generally come in the spring months.

Perhaps the heated strife over slavery, the war, and reconstruction had something to do with the extreme partisan measures already noted. Certainly after 1870 we find a distinct movement against the tide of partisan and special legislation for cities, which may have been due to the calmer tone of national politics, but may be simply the inevitable revulsion from the extreme measures of the previous decade. The municipality of New York which had been legislated almost into nothingness, received a new charter in 1870 abolishing the State commissions and for the first time giving that city a general power of taxation, and although the immediate effect was to give the Tweed Ring free sway for its schemes of plunder, the charter of 1873 made no attempt at reviving the State commissions.

The State commissions for other cities were not abolished at this

time, but a movement against legislative control of municipal government developed, taking the form of constitutional prohibitions of special municipal legislation. Ohio and Virginia had established such constitutional provisions as early as 1851, and had been followed by Iowa and Kansas before 1860. But after the civil war similar action was taken in a large number of States: Florida, 1865; Nebraska, 1867; Arkansas, 1868; Illinois, 1870; West Virginia, 1872; Texas and Pennsylvania, 1873; New Jersey and Missouri, 1875; California and Louisiana, 1879. Some other States adopted somewhat different constitutional provisions aimed more or less definitely at the evils of special legislation.

In Illinois the prohibition of special legislation seems to have effected results, and under the general municipal corporations act of 1872 the detailed organization of the cities in that State was left to the municipal council. But in other States the various constitutional provisions were not always successful. It was early recognized by the courts that laws applying only to a certain class of cities complied with the requirement for general laws, and such classes were quickly created by statute, each class being under different methods of organization, and with different degrees of authority. In some States, notably in Ohio, the scheme of classification was elaborated to such a degree as to permit special legislation for particular cities under the form of laws for a class of cities, and the old system of a special statute for each additional grant of power to a municipality, or even for a change in the detail of executing existing powers, has remained much as before.

The decade 1870-1880 witnessed the reorganization of municipal government in many important cities. The New York charter of 1870 was followed, after the overthrow of the Tweed Ring, by an amended charter in 1873, and Brooklyn also received a new charter

in the latter year. Revised charters were enacted for Richmond in 1872, for Milwaukee and Pittsburg in 1874, and for Springfield (Mass.) in 1877. Chicago adopted the Illinois general act in 1875, and in 1876 St. Louis received a new organic law framed (under the constitutional provision) by a city convention, and adopted by popular vote. These charters all agreed in providing for the appointment of many administrative officials by the mayor, subject to the consent of the council. In St. Louis, the mayor—who was given a four-year term—had at the beginning of the third year of his term the absolute power of appointing the important department heads. In several instances the mayor had also the power of removing such officials on definite charges, the mayor of Richmond having this limited power of removal, with no power of appointment. In Brooklyn the mayor could suspend, but could not remove officials; and in New York the mayor could remove only with the approval of the governor of the State. Most of the new charters also agreed in giving to the mayor a limited veto power over council ordinances, subject to a two-thirds or three-fourths vote of the council. These measures were tending to centralize municipal authority in the mayor, but the necessity for securing council confirmation for his appointments, and the restrictions on the removal power proved to be serious limitations which left the administrative departments still, to a large degree, independent and with no one who could be held directly responsible for mistakes or mismanagement.

By these changes the powers of the councils were becoming of smaller importance than ever. Those of Chicago and other Illinois towns were exceptional in having the power to determine the internal organization of the administration. New York returned to the single-chambered council, and this continued the more gen-

eral form, St. Louis, however, retaining a bicameral council, one body chosen on general ticket, and one by wards.

Two distinct advances were made in the New York charter of 1873. One was the creation of a board of estimate and apportionment, consisting of the mayor, controller, president of the board of aldermen, and president of the department of taxes and assessments. This board had complete control over the preparation of the budget, and at once became the determining authority in municipal expenditures, and thus the effective center for the entire municipal government. The second advance was the prohibition on the removal of certain classes of subordinate employees of the municipal government except for cause, thus restricting in some degree the operations of the spoils system.

The main points in municipal development to be noted for the period 1850-80 are (1) The extension of municipal functions in kind and degree; (2) the constant growth of special and partisan legislation for cities, and the first ineffective measures to prevent such legislation; (3) the steady decline of the council; (4) the tendency for the government to disintegrate into independent departments, with no unity or harmony of purpose and action; (5) the development of the mayor's authority, through the limited powers of appointment and removal and veto power.

V. 1880-1900.

The last two decades of the century have been marked by the continued growth of urban population and municipal activity; by further changes in municipal organization; by some improvement in the subordinate administrative service; and by the increasing movement against the system of partisan and legislative government of municipalities.

The census of 1890 demonstrated that over 27 per cent. of the entire population of the United States were in the four hundred towns of over 8,000 population, while as many as twenty-eight cities had over 100,000 population. At present there are nearly forty cities in the latter class, and 140 with over 30,000 population. New York has 3,500,000 within its extended boundaries, Chicago not far from 2,000,000, Philadelphia 1,250,000, while St. Louis, Boston, and Baltimore have each over half a million, with Buffalo and Cincinnati approaching the last-named figure.

Municipal functions have developed even more rapidly than urban population. Not only have police corps, fire brigades, water supplies, and street paving come to be provided in the newer cities, and greatly extended in the older places, but new standards of efficiency have arisen, which have required a development far beyond that required merely by the growth of population. This has been most noticeable in respect to fire brigades and street paving. Only ten cities of over 30,000 population in the United States now depend on volunteer companies for fire protection; street engineering is now recognized as a necessity, not only for the business sections of large cities, but also for the residence quarters in even comparatively small communities; and highway construction includes, in addition to streets and small bridges, huge steel and masonry viaducts over broad streams, railroad tracks, and low-lying places, while in recent years underground routes have also become necessary in the largest cities. In other departments the advance from former standards of municipal activity has been so great as to constitute practically new fields of action. Public education has been entirely reorganized, and elementary schools supplemented by tax-supported high schools and free public libraries; poor relief has been organized and classified, and special institutions created for different needs. Ex-

tensive public parks are now general in all important cities, while the larger places have, in addition, connecting boulevards and many small parks in the congested districts. Street lighting by electricity, street cleaning and garbage disposal are important municipal functions almost unknown a quarter of a century ago. The supply of light, heat, and power to the community, and the provisions for local transit have also become questions of intense public interest in cities, and although in most cases the immediate control of these utilities is in the hands of private corporations, there has been public action in the granting of franchises for the use of the streets; while in a few cases municipalities operate gas and electric light works.

This advance in municipal activity has inevitably been accompanied by a corresponding increase in municipal expenditure and taxation, until municipal finances have become of no less significance than the national budget. The total expenditure of New York City for the year 1898 was $150,000,000, and this sum was equalled by the aggregate expenditures of the seven other cities with over 400,000 population. The smaller cities expend less per capita than the large cities, but their budgets are also for larger amounts than cities of the same population a few decades ago. This expenditure (which is met, for the most part, by the general property tax and special assessments on real estate) and the municipal activities which it represents, are made possible by the vast increase in the value of urban property, which has grown even more rapidly than urban population.

Of the recent changes in municipal organization the most general has been the tendency to concentrate authority and responsibility in the mayor. In 1882 the mayor of Brooklyn was given the absolute power of appointing the principal department heads for

that city. Two years later, the same power was given to the mayor of New York City, and by 1890 this principle had been established in Long Island City, Ithaca, Syracuse, and Utica, while in some other cities the mayor had the absolute power of appointment for some positions, though, for most, the confirmation of the council was necessary. In 1891 the mayor's absolute power of appointment was established in Buffalo and Cleveland; in 1895 in Boston, for most of the principal positions; and since then in Lowell, Holyoke, Quincy (Mass.), the four cities of the second class in New York State,[1] and other cities. At the same time, however, other recent charters—including those for Philadelphia (1887) and Baltimore (1897)—repeat the former requirement that mayor's appointments must secure council confirmation, and this remains the more general rule.

The correlative principle of the mayor's complete power of removing department heads—necessary to establish his full responsibility—has been established in even fewer instances than the absolute power of appointment. In 1895, the mayor of New York was given this removal power for the first six months of his term, and the same rule was renewed in the charter of 1897 for the enlarged city. The mayor of Boston has had since 1895 the power of removal for cause specified in the order of removal, and from 1900 the mayors of New York second-class cities have the power of removal. Elsewhere the removal of department heads within the term of their appointment can be accomplished only on proved charges of serious maladministration; and there is no effective control over the operations of the various departments, except such as may be exercised by party leaders in the interests of the party.

On the other hand, the mayor's veto power is now well established, and by the later charters the veto may be applied to par-

[1] Rochester, Syracuse, Albany, and Troy.

ticular items in an appropriation bill, so that the importance of a measure as a whole need not be the excuse for allowing objectionable items to pass. Generally a two-thirds or three-fourths vote of the council will pass a bill over the mayor's veto; but in Cincinnati and Dubuque a four-fifths vote is required, and in New York City a five-sixths vote.

In the development of systematic financial procedure the large cities have also made noticeable progress. The auditing and accounting department has become almost the center of the municipal finances, and its head—generally called the controller—is an elective official, even where the mayor has the widest appointing power. In budget procedure the New York idea of a small board of estimate, on which the mayor and controller are the leading members, has been extensively imitated. Boston, Baltimore, Buffalo, New Haven, Detroit, Indianapolis, Minneapolis, Sacramento, Superior, Holyoke, Worcester, Saginaw, Cleveland, Columbus, Toledo, and the four New York second-class cities have each some such board, though, in a few cases, the councils still exercise full power of amending the budget submitted. Chicago, Duluth, Dubuque, Omaha, and Minneapolis are important cities where council committees still determine the budget, often paying scant attention to estimates or recommendations from the administrative officials. In the smaller cities the council remains the central organ in financial as in other municipal business.[1]

The organization of municipal councils remains a matter of discussion and legislation. Detroit and Cleveland, after a brief period of bicameral councils, have returned to the single chamber, but Boston, Philadelphia, and Baltimore retain the double house, and the New York charter of 1897 restored this arrangement in the metropolis. The importance of the council has steadily diminished,

[1] F. R. Clow. The Administration of City Finances.

not only through the growth of the mayor's power and that of the department heads, but also in some States through special legislation conferring local franchises, thus depriving the council of its sole remaining function of real significance. But whether granted by council or legislature, franchises have continued to be granted with little or no apprehension of their value. The grants have been for long terms, sometimes in perpetuity, and the provisions for compensation have been both vague and inadequate. The New York charter of 1897 limits the duration of any franchise grant to twenty-five years.

The expansion of municipal functions and municipal expenditure has involved a corresponding expansion in the administrative service, positions in which have continued to be filled often for party purposes rather than for the most efficient service to the city. So long as one party remained in power for some time the administrative results were, perhaps, tolerable, and the principle evil of the system was that it enabled the party machine in control to entrench itself so as to make its defeat almost impossible. But when, either through local contests or the perturbations of national and State politics, frequent changes occurred in the party control of a given city, the no less frequent changes in the administrative subordinates, substituting new men for those of at least some experience involved serious delays and mistakes in municipal work, and produced most inefficient results and intolerable conditions.

The law of 1873 for New York City, prohibiting the removal of certain subordinate officials (such as members of the police force and fire department), except for cause, was the first important measure to counteract this tendency, and this rule has since been adopted in other cities. Soon after the adoption of the competitive-examination system for the national civil service, a similar system

was provided for Philadelphia, and the cities of New York State and Massachusetts. In New York, the civil-service rules of the various cities must be approved by the State civil-service commission, while in Massachusetts they are drawn up by that body. In 1894 Chicago also adopted a like system, and the New Orleans charter of 1896 follows these examples. A few other cities have civil-service examinations, but in most cases there is much need for improvement in the method of selecting subordinate administrative officers.

Further constitutional prohibitions of special legislation appear during these two decades, for the new States of North Dakota, South Dakota, Wyoming, and Washington in 1889; for Mississippi in 1890, and for Kentucky, Minnesota, and Wisconsin in 1892. The Washington constitution and a constitutional amendment for Minnesota in 1896 follow Missouri and California in giving the large cities the right to frame their own charters within the limits set by general statute. But, as was already apparent in the States which had adopted such provisions earlier, the difficulties of defining a special act and of distinguishing between municipal affairs (for which special legislation was forbidden) and other matters on which there was no restriction, have resulted in many States in the practical nullification of the prohibitions.

The New York constitution of 1894 contains no prohibition of special legislation, but does contain a provision that special city laws (which are defined as laws applying to less than all the cities in any one of the three classes defined in the constitution) shall be submitted for the approval of the city concerned, and any bill disapproved by it must be subsequently repassed by the legislature and signed by the governor to become law. This provision at least prevents special legislation from being enacted without giving the

local authorities an opportunity to present their protest if opposed to such legislation; it may also prove competent to prevent the passage of some measures over the local veto; but it can hardly accomplish any result in the case of a party measure supported by the party in control of the legislature and opposed by the party in control of the city.

Special State commissions to administer certain functions generally in the control of the municipal authorities have been established within recent years. The Detroit State police commission was abolished in 1891, but the Baltimore commission has continued since 1860, St. Louis has had a State police board since 1876, Boston since 1885, Cincinnati since 1886, and similar State commissions now exist in San Francisco, Denver, Fall River, Kansas City and St. Joseph, Mo., Birmingham, Ala., Manchester and Concord, N. H., and all the Indiana cities of over 10,000 population. Omaha had such a commission from 1887 to 1897, subject to frequent partisan legislation, which recalls the Chicago police statutes of 1860-65. Elsewhere the desire for office seems to have played a less important part in the movement than in that of three decades ago, and the principal motive seems to have been to insure a more vigorous enforcement of legislation restricting or prohibiting the liquor traffic. It is doubtful, however, if this result has been to any extent accomplished, for in the long run the State boards have generally found it advisable to recognize the local sentiment which affected the former local boards, and the principal outcome of the legislation has been to strengthen the political influence of the party controlling the State governments. A more effective course for administrative improvement would seem to be the application of the principle already recognized in health, education, and charity administration—the establishment of a central

State authority with power to investigate the work of local authorities, and to compel the latter to enforce the law when they have been proved delinquent.

Some steps have been taken to diminish the influence of national and State politics in local elections by arranging the municipal elections at different times from the general elections. The Massachusetts cities have their elections in December, a month or more after the general elections; New York has its municipal election in the odd years when there are no congressional or presidential elections, but as there are annual elections for the State legislature there is not yet a complete separation here. A few cities hold municipal elections in the spring, as is the general rule for elections in rural towns; but although the general principle of separate elections is making headway, its adoption in any large number of cities will take no little time.

CONCLUSION

We have noted the growth of urban population and the development of municipal government in the United States from the petty colonial borough to the vast metropolitan municipality of to-day. We have seen the evolution from the simple and unorganized council government to the complicated administrative machinery of municipal departments. In the process, the central direction of municipal affairs has passed from the council, and in most American cities authority is distributed and dissipated on no fixed principle between council, mayor, and State legislature, while the influence of national and State political contests in municipal elections, and the operation of the spoils system in municipal officeholding have served to deteriorate still further municipal administration. In recent years, however, we see certain tendencies toward a more

scientific distribution of authority, toward the separation of municipal from national and State elections, and toward a more permanent and efficient subordinate service; and while these tendencies have not as yet become widespread, yet it is along the lines already indicated that further advances of a permanent nature may be most rationally anticipated.

THE MUNICIPAL PROBLEM IN THE UNITED STATES

HORACE E. DEMING

Municipal government in the United States is, on the whole, less satisfactory than our State or national governments. It has been confidently claimed by many that the conspicuous failure of democracy as a form of government under the exacting conditions of our modern industrial civilization is demonstrated by the American city. In several States there have been elaborate investigations and reports by specially appointed State commissions upon the subject of municipal government, and the evils have been pictured again and again. Literally thousands upon thousands of statutes and not a few constitutional amendments have been enacted in the search for remedies. Still the evil remains with us.

Is, then, the search for a remedy hopeless? Does the democratic-republican form of government make impossible the honest, efficient, economical, progressive conduct of municipal affairs? In Great Britain and on the continent of Europe under the widely varying governmental systems of England, France, Germany, Austria-Hungary, and Belgium, the cities are the most conspicuous examples of efficiency, economy, and progress in the field of government. In each of those countries, also, the city, as a scheme of government for the determination of matters of local policy and the administration of local concerns, is far more democratic, not only in its conception, but in actual practice, than the general government itself. The failure of municipal government in our own coun-

try, therefore, can hardly be attributed to the democratic character of our institutions. To what, then, is this failure due? In our judgment the principal causes are not difficult of statement, and in saying this we recognize that these causes are themselves the result of or complicated with yet other causes. There is no short or easy road to the goal of efficient, economical, progressive municipal government. There is no one specific for the municipal evils from which we suffer.

A necessary condition precedent either to an intelligent comprehension of the municipal problem or to well-directed effort toward its solution is a correct conception, first, of the nature of municipal government; and, secondly, of the proper relation of the municipality to the general government of the State.

Municipal government considered in reference to the physical area embraced within its corporate limits and to the dwellers within those limits has two chief functions: (1) The determination of the local public policy; (2) the administration of the local policy, *i. e.*, the carrying into practical effect of the local policy that has been decided upon.

Municipal government considered in reference to the general government of the State, unless charged by the State government with the administration of general laws, has, properly speaking, nothing to do with the State government save as the source from which its own corporate life and powers are derived; and the State is under no compulsion to delegate to the municipal corporation the administration within its corporate limits of the general State laws, *i. e.*, the carrying into practical effect within its corporate limits, of the State policy that has been decided upon. The State may and often does appoint its own agents directly for such purpose, *e. g.*, the State Banking, Insurance or Excise Departments

may administer the State laws on those subjects within the municipal limits without resort to any municipal official; on the other hand, the State may find it convenient to delegate to the municipality the authority and duty of enforcing within it the State policy, *e. g.*, as to the care of the insane, of the poor, the preservation of the peace. The point to be noted is, that whenever the municipality is charged with such a duty it is acting as a subordinate administrative agent of the State, and has properly no more lot or share in determining the policy of the law it is administering within its corporate limits than if directly appointed State officials were administering the same law within those limits.

The only fundamentally necessary connection, then, between the municipality and the State government is as the source from which the municipal corporation, as every other corporation, derives its corporate powers. It needs no assistance from the State to exercise its corporate powers. Its necessary connection with the State begins and ends with the grant of power to act, just as an insurance corporation once granted the power to engage in the insurance business has no need of further resort to the State to conduct its business. Where, however, the municipality is made a subordinate administrative agent of the State it is necessarily and properly under the constant supervision and subject to the constant control of the State.

We are now prepared for the statement of two of the principal causes of the failure thus far in the United States to secure efficient, economical, progressive municipal government, viz.:

The municipality is not granted sufficient power to determine for itself all matters of local public policy and to settle for itself the details of its scheme of internal local administration;

The municipality as a subordinate administrative agent of the

State is placed partly or wholly under the supervision and control not of any State administrative department, but of the State Legislature.

If, now, we turn once more to the relatively successful experience of European cities we find that, as compared with American cities, the European cities are conspicuous examples of self-governing communities as to all local matters, and that without attempting to draw any hard and fast line of demarcation between what may be properly denominated State functions and city functions, whenever the State does exercise any supervision over the municipality, it is an administrative, not a legislative, supervision. In a broad, general sense it may be said that the European city is self-governing, that the American city is State-governed. The citizens of Glasgow govern Glasgow; the Legislature of New York governs Buffalo.

This dual character of the city as a scheme of local government and as a subordinate administrative agent of the State has caused and still causes much confusion of mind when municipal problems are considered. There has been too often a failure to recognize the profound distinction between the two radically different functions which the city is called upon to perform in its relation to the locality upon the one hand and to the State on the other. Even when this distinction has been recognized it has usually been as a pure matter of theory; or the value of the recognition has been lost in attempts to classify municipal governmental functions and State governmental functions into separate categories in the vain and futile expectation that by so doing some rule or formula could be established, by the observance of which the State could be kept out of the local field altogether. Those impressed with the importance of preserving the supremacy of the State have

been willing enough to admit as a matter of theoretical analysis of governmental powers that the city as to its purely local affairs should not be interfered with by the State, but their practical conduct is inspired by the dread that an *imperium in imperio* would be created if such interference were prohibited. Those convinced that the city should be assured absolute independence in the conduct of its own affairs often find it impossible in a given case to draw the line between the jurisdiction of the State and the jurisdiction of the city. For example, the State must see to it that the public health is cared for and good order preserved in every part of its territory whether within or without the corporate limits of a city; the same may be said of public education. The duty and the right of the State to determine and enforce a general State policy everywhere within its borders in sanitary, educational, and police matters are unquestioned. One does not hesitate a moment to class these among the functions of the State government. Yet we know as a matter of everyday experience that these are among the very subjects with which municipalities are most intimately concerned and that within their corporate limits the local public policy must be based upon a higher standard and the local administration of the policy must be more elaborate in its details and more strictly enforced than is required by the State at large. It would seem, therefore, as if these were municipal governmental functions as well as State governmental functions; and such is the fact.

It does not follow, however, that the State should prescribe or control the municipal policy as to the matters mentioned beyond the point required to enforce the general policy of the State at large. The State may be satisfied to require only elementary education throughout the State generally; the city may desire high schools and free colleges; is it a State function to decide this question? The

State may select its own officials to enforce and administer within the city the State policy as to elementary education; or, if it prefer, may delegate such enforcement and administration to the municipality under State supervision; but is the State not an interloper when it goes beyond that and defines the city policy as to education of a higher grade as to which the State has no general policy whatever? The determination, in the case supposed, of the public educational policy within the municipality as to the higher grades of education is as purely a local governmental function as is the decision of such matters as street grading and paving, the height of buildings, the maintenance of parks, the construction of a bridge, the erection of a city hall, the establishment of markets.

How, then, can this dual character of the functions performed by a municipal corporation be recognized in practice so as to preserve, on the one hand, its due subordination to the State when acting as the State's administrative agent and, on the other, its local independence when determining or administering matters of local policy?

The distinction to be noted and scrupulously maintained between State functions and city functions is not in any real or imaginary difference of the two considered as governmental functions. The municipality is as truly government as the State. Its field of operation may, as we have seen, be in part identical with that of the State. In so far as it operates within this field it is performing State governmental functions; and the State just to the extent that it has a general policy within this field applicable throughout the State may compel the municipality to adopt and enforce that policy, or, if it chooses, may select some other agent than the municipality for the purpose. But when there is no such general

State policy in force, and outside of the limits of such policy, the municipality is not properly subject to State supervision.

The test, then, of the propriety or impropriety of any given instance of interference or control by the State in the local public policy of a city is this: Does the local policy conflict with the general public policy of the State as determined by the policy-determining authority of the State and which as such general policy is embodied in laws equally applicable to every part of the State?

The application of this test will, we think, go far to remove the difficulties which are encountered in the effort to divide into categories the governmental functions of the State and of the city. It is obvious that in the nature of things a purely local function can not be the subject of a general State policy. The mere effort to embody a policy suited to a particular locality into a general law applicable throughout the State will convince anyone of the force of this statement. No truly general law can interfere in any way with a purely local concern. On the other hand, no one will dispute that a general policy embodied in a law equally applicable everywhere within the borders of the State should override any purely local policy.

A rigid application of this test would also diminish amazingly the bulk of our statute law and would reduce even more the number of proposed laws that now cumber to an extent hardly credible the desks of our legislators. During the recent session,* which was exceptionally brief, of the New York Legislature more than four hundred bills were introduced affecting the purely local affairs of one city.

One of the fundamental rules—the exceptions to it are indeed rare—of sound State legislation is that it should be confined to the

*1898.

enactment of laws applicable alike to every part of the State's territory.

There is another fundamental principle of sound legislation, the frequent—one is tempted to say constant—violation of which goes far to explain much of the misgovernment, both State and local: The Legislature should not concern itself with administrative details.

This principle lies at the basis of the civil-service reform movement, which has wrought so great a change for the better in our governmental methods. From the beginning of our government the legislative branch has been the great usurper of power and the most dangerous to popular liberty. Not content with the determination of the public policy, it has assumed and taken over to itself the regulation and supervision of the administration of the policy. Nine-tenths of the contents of the statute books are made up of details of procedure, of minutiæ of administration. And, since a statutory regulation, no matter how unfit, can only be altered by another statutory regulation, the desks of members of the Legislature groan at every session under a stupendous weight of desired and often necessary amendments to the already exaggerated bulk of laws that owe their origin to misdirected legislative activity.

Administration is not a legislative function. A Legislature is not an administrative body. It has neither the technical equipment nor is it intended to perform administrative functions. Fancy a Legislature performing the duties of a Commissioner of Education, or of Health, or of a Superintendent of Prisons. The Legislature may indeed enact laws establishing the policy of the State in matters of education, the public health; the custody of criminals, or the care of paupers, but there its functions cease. The administrative service

of the State must enforce the laws as to education and public health and prisons and the chiefs of State administrative departments, not the Legislature, must supervise the administrative service. A Legislature, whether a State or a local Legislature, is intended to perform deliberative functions, to determine questions of policy, to control matters of taxation and appropriation, to devise general laws under which administrative officers may carry out in practice the policy determined upon by the Legislature. But the same body should not attempt to exercise the policy-determining and policy-administering functions.

The policy-determining body may and should enact the laws embodying and laying down the general rules for its enforcement; the appropriate administrative head should apply those rules and be free within their limits to establish and control all the detailed regulations that in actual practice may be found necessary or proper to enforce the policy and general rules. It follows that if there be a State Department of Prisons, for example, or of Education, or of Public Health it should be clothed with the requisite power to carry out the State's policy in those matters in every part of the State without continual resort to the Legislaure; and the cases should be rare indeed that would call for a special State law for some particular district or town. The national civil-service law is an example of legislation based upon this sound principle. The State's policy is stated clearly, and a special administrative department is created charged with the duty of carrying that policy into effect. To this administrative department is left every question of administrative detail subject to the supervision and control of its administrative chief. Its rules are devised, and, when changes are desirable, they are made with sole reference to making effective in actual practice the declared policy of the State; and, while to have any

legal force or effect they must always be consistent with that policy, they may at any time be readily adapted to meet changed or unforeseen conditions. Under this wise law, without friction or any strain upon the time of the national legislators, a great administrative department in the public service of the country has been developed with the maximum of economy and efficiency. The reason is plain—there has been the minimum of legislative supervision and control. An example by way of contrast emphasizes the lesson. The Post Office Department without a statutory amendment can not consolidate certain of the postoffices. The experience of the department has demonstrated that the consolidation would save several millions in money and increase the efficiency of the service. The statutory amendment can not be had. The National Post Office Department has had a heavy annual deficit for years, largely because of such legislative control and supervision of the details of a purely administrative service.

The State Board of Charities in New York State has control under general laws of the administration of numerous institutions scattered throughout the State, with their thousands of unfortunate inmates. Recently also New York, having adopted a general policy as to the traffic in liquors, has established a State Excise Department. There is no legislative supervision and there is no friction with local authorities, yet the general laws establishing the State policy as to these matters are made by the Legislature. These are examples of the successful administration in every part of the State of general laws by the officials of a State administrative department under the supervision and control of an administrative chief. Many other examples will suggest themselves.

These examples show that efficient State supervision in matters of administration does not mean legislative supervision, and that,

when the Legislature has determined the policy of the State the carrying out of that policy can be and should be intrusted to the appropriate administrative department of the State. Long, bitter, and costly political experience teaches that legislative supervision of administrative details is inefficient and cumbrous, and tends to political corruption.

One of the plainest lessons taught by the political experience of our own country and of each of the United States, as well as of other countries, is the need of this separation of the policy-determining power in the government from the policy-administering power—that the detailed regulations of the administrative service should be left to the heads of that service, that they, and not the Legislature, should be charged with the supervision and control of all matters pertaining to administration.

The observance of this rule—that the same body should not exercise both legislative and administrative functions—is of especial importance in the treatment of municipal government by the State Legislature, for municipal government more than any other is concerned with matters of administration. This is the real significance of the phrase, "Municipal government is business, not politics." Its functions, when it acts as the agent of the State for the enforcement of general laws within the corporate limits, are purely administrative; and it is charged in addition with the administration of the multifarious details of its own local business. In the very nature of things its administrative service must often exceed many fold that of the State both in number of persons employed, in the expenditure involved, and in the multitude, the magnitude, and the intricacy of its problems. The evil effects, therefore, of the intrusion of the State Legislature into the administra-

tive field are especially felt in the case of municipalities. These evils are still further aggravated by the fact already pointed out that the Legislature is the policy-determining branch of the State government. The decision of questions of policy gives rise to political parties. Division of opinion on questions of public policy is the only sound reason for the existence of different and contending political parties. There can be, in no proper sense, a party political question about mere administration. The national financial policy may be sixteen to one, or twenty to one, in favor of bimetallism, silver monometallism, or the single gold standard —the administration of the mint is concerned only with honest coinage. The State policy of New York may be for the deepening and widening of the Erie Canal—the enormously expensive work necessary to the carrying out of the policy is a matter of honest, intelligent, and efficient administration; partisan politics has no proper place in it. Whether or not New York City shall have an extensive system of intramural transit, undertake costly dock improvements, or establish stupendous waterworks may arouse intense partisan feeling; but, the policy once decided in favor of these enterprises, the carrying out of the policy is administrative work, not partisan politics. Not only is it true, therefore, that, whenever the Legislature enters any field of administration, its intrinsic unfitness for such work results in costly inefficiency, as, for example, when it attempts to regulate the detailed rules of court procedure, but such legislative intermeddling injects partisan politics into the place of all others most unfit for political partisanship —the public administrative service.

That legislative functions are not administrative functions and that legislative activity must in the public interest be excluded from

the administrative field is a fundamental principle of good government, national, State, and municipal.

The importance of this principle has found abundant illustration in the long history of municipal misgovernment in the United States. Persistent legislative interference has confused and complicated the municipal problem from the beginning.

There is another element of the municipal problem to be considered. In the United States of America a city is a creature of the Legislature. Its powers are enumerated by the law that created it. It has no other powers. The Legislature gives and the Legislature takes away. The only restrictions upon the absolute dominion of the Legislature over cities, apart from public opinion, are such as may be in the State Constitution. According to the American theory the authoritative control of the city's affairs is not in its citizens, but in the Legislature. The city controls its own affairs only by sufferance of the Legislature. The real seat of authority is not in the city, but in the State Legislature. The legal validity of an act by the city, *e. g.*, issuing its bonds, contracting for waterworks, for a sewer or a pavement, regulating the use of its streets, is not determined by the will or expressed desires of its citizens, but by the will of the Legislature as set forth in some statute. The city is not merely the creature of the legislative will, it is the helpless victim of legislative caprice.

Cities in the exercise of the powers granted them by the Legislature must not only keep strictly within the limits set by the Legislature, but they can follow only such administrative methods as the Legislature prescribes. The municipal will is the mere reflex of the legislative pleasure. The Legislature may and does regulate down to the minutest detail the methods and personnel of

municipal administration. This street may have a railroad, that may not; this street shall be thirty feet wide, that one hundred feet; this paved with asphalt, that with cobbles; this head of a city department be elected, that appointed; this city official have a term of three years, that one year, another an indefinite term.

Since the city possesses only definite enumerated powers, not only the city itself, but every person dealing with it, must find in the law creating it a warrant for the exercise of any power; and since a city may only exercise one of its enumerated powers in such manner as the law granting the power may prescribe, any one dealing with the city must examine such law at his peril. These propositions are fundamental and elementary. Is a new power necessary or desirable or a change wished for in the methods by which it is permitted to exercise any of its powers? The Legislature and the Legislature alone can grant the new power or make the change of method.

Familiar as are these facts and elementary as are these legal propositions their tremendous consequences in American municipal history can not be exaggerated. They constitute one of the fundamental reasons for the mismanagement of our cities, for the corruption of our Legislatures, and for the lack of municipal patriotism. Whether performing purely local governmental functions or acting as the governmental agent of the State, the city in the United States is the creature of statute.

This legal subordination of the city, when acting in either character, to the central authority of the State Legislature—combined with the great difficulty often of drawing a clear line of demarcation between matters calling for the exercise of purely local governmental functions and matters of general State policy and the irresistible tendency of modern industrial civilization to mass population

at trade and manufacturing centers, thus constantly calling into existence an increasing number of new cities and enlarging the area and the population of cities already established and consequently their field of activities—has furnished almost boundless opportunity for misdirected legislative energy. The rural district has become a town; the town a small city; the small city a large one; the large city a metropolis, with startling rapidity. At each stage of growth the need of exercising new governmental activities in order to satisfy the local wants has been felt, and the Legislature has been called upon to confer the requisite power or to act directly through boards and commissions of its own appointment. At each stage, also, the administration of the general laws of the State within the city's limits and the satisfaction of the local needs have demanded increasing attention, more administrative officials, and changes of administrative plan adapted to the new conditions. The State Legislature has been called upon to devise and control this administrative development.

The cities have been governed from without, not from within; such governmental powers as they may have are exercised not by methods and agencies selected by their own citizens, but according to the theories of outsiders. They have not been self-governing communities free to apply their own remedies to their own ills and, taught by experience, to work out an administration adapted to their local needs.

This process has been going on with accelerating speed for more than half a century, and is still going on before our eyes to-day. Both the process itself and the results of it may be characterized as an attempt by the State Legislature to conduct the municipal government. The legal position of the city in relation to the Legislature has been so helpless, its dependence upon the Legislature

so absolute, and the need of frequent application to the Legislature as the real source of power has been so continuously urgent that not only does local self-government, either in the sense of the direct management of its local interests by the city's own citizens without outside interference or in the sense of the administration of its local scheme of government, scarcely exist in the United States to-day, but there is very little genuine local public spirit. This constant resort to and interference by the Legislature have grown to seem perfectly natural, and, as it were, inevitable in the conduct of municipal government. Except, however, that our senses have been dulled by long use to legislative usurpation, the invasion of our liberties would soon cease. Let us imagine State lines to be obliterated and a Legislature at Washington constantly intermeddling with the local policy and internal administration of Boston and San Francisco, Chicago and New Orleans, Philadelphia and St. Louis, New York and Omaha, and the other cities of the country, large and small. The absurdity and iniquity of such a course are at once evident. It violates the most cherished principles of a free government. The very idea of it is repulsive. We instinctively revolt at it and are quick to see that it is foreign to the spirit of our institutions, and that local self-government is necessary to their successful or long continuance. But what is the essential difference in principle between the case supposed and the actual facts in Pennsylvania, for example, or New York? Is our patriotism supine and inert save in supposititious cases? Does not a Legislature in Albany constantly intermeddle of its own motion and not in response to any local need with the local policy and internal administration of the fifty or sixty cities, large and small, of New York State? Such an abuse of power would be monstrous and repellent to every self-respecting citizen of an English city. It would be difficult for him

to grasp even the idea of its possibility. It would seem wholly unnatural and revolting to him. It should seem wholly unnatural and revolting to us.

A really self-governing city is a school in civic patriotism; the city in the United States, with its constant appeal to the Legislature for aid and direction, and the constant uninvited intervention by the Legislature in local governmental affairs is destructive of the spirit of true democracy, and is an example of cumbrous, expensive, and inefficient administration.

The remedy is plain. The city must cease to be the abject slave of legislative despotism. It must be made sufficient for itself. It must govern itself.

How shall this remedy be applied?

The primary function of a city, the fundamental reason for its existence is to satisfy the local needs of the community within its corporate limits. Let the municipal corporation, therefore, be clothed with ample governmental power to satisfy these needs. Let the Legislature grant these powers once for all. Application to the Legislature for additional governmental powers will then be unnecessary. If the city is granted these powers its citizens must be granted also the authority, subject only to limitations applicable to all cities in the State, to devise their own methods and adopt their own agencies for the exercise of these powers. The Legislature will then have neither occasion nor excuse for interfering with the substance or detail of the local administrative methods. This eliminates legislative interference from the municipal problem, so far as the city is concerned with its local needs, and makes the city a self-governing community—compels it to be such. Does any one doubt that the citizens of a municipality under these circumstances, free

to rely on themselves and unable to secure any help save from their own patriotic efforts, would fail to become a self-governing community with an efficient, responsible, well-ordered administration adapted to the local needs?

Nor, as we have already shown, need there be any difficulty in applying this remedy because of the fact that within the corporate limits of the municipality the laws of the State must be enforced and that such laws, being general in their nature and equally applicable to every portion of the State, must be the work of the State Legislature. Such laws are not intended to satisfy the peculiar needs of a particular locality. They concern the citizens of every locality in the State. They are general in their nature. Their administration is a matter of general concern.

When the State delegates to the municipal corporation the duty of administering a general law within its corporate limits, the city, as an administrative agent of the State, is properly subject to State supervision, but it should be administrative supervision, not legislative. The appropriate central State administrative department should be given the requisite authority to compel the satisfactory carrying out by the municipality of the State policy, *e. g.*, a State Board of Civil-Service Commissioners to enforce the observance of civil-service laws. On the other hand, the municipality, when it is put to great expense for the general benefit in carrying out the State policy, may rightly be reimbursed by the State; *e. g.*, in New York the locality is repaid from the State treasury a large share of its expenditure in executing the general State policy as to education.

We are now prepared to lay down these fundamental propositions:

1. The municipal corporation should be invested with the governmental powers requisite to determine all questions of local public

policy. There should be no excuse, and, if possible, no opportunity to apply to the Legislature for additional powers; and, on the other hand, the Legislature should have no excuse, and, if possible, no opportunity to intermeddle with the local government by granting or taking away any power which enables the city to decide for itself any question of local public policy;

2. The citizens of the municipality under general laws should be free to make and amend their own form of municipal government, provided it be based upon democratic-republican principles, and to determine their own methods of administration of the local governmental powers, according to their own ideas of what will best satisfy their local needs;

3. In so far as the municipal corporation is made the agent of the State to enforce and administer general laws within the corporate limits, it should be under the supervision of and responsible to central State administrative departments, and not subject to the sport of special legislation.

A municipality thus constituted is not an *imperium in imperio,* but a free, self-governing community, subject to State administrative supervision as to all matters of general State policy to be enforced throughout the State. Legislative interference is eliminated. Home rule is not only possible, but compulsory.

The course here outlined marks out the road for the solution of both the legal and the political difficulties of the municipal problem. It furnishes a practical and practicable municipal program in support of which, as we believe, all earnest municipal reformers may unite their efforts.

To accomplish these results in their completeness and to guarantee their permanence a constitutional amendment is very much to

be desired. In every State the friends of efficient, economical, progressive municipal government should organize and continue a vigorous and unwearying campaign until a constitutional amendment embodying these fundamental principles shall have been adopted. But without any constitutional amendment many important results can be effected, and the efforts to accomplish them will not only aid the ultimate adoption of the amendment, but will help to create an alert and intelligent public opinion, which is a surer safeguard of popular liberties than any written constitution.

No constitutional amendment is needed to enable the Legislature to grant to the city all the governmental powers requisite to determine for itself all questions of local public policy. No city in the United States has all the governmental powers requisite for healthy, vigorous, complete self-development, but there is not one of these powers that is not now possessed through legislative grant by many cities. Why should not the Legislature grant to each city all the powers? The minds of our fellow-citizens are already turned in this direction, and in our efforts to secure the legislative grant to cities of more and larger powers of self-government there is not one of the powers requisite for this purpose for which we can not find a precedent in its actual grant to many cities. And the more recent the legislative charter the more liberal and the more comprehensive have been the terms of the legislative grant of power. In New York no city for many years has been granted so many of the fundamental powers of government as the recently enlarged city of New York.

The leaven is working, and public opinion rightly directed will yet compel not only the legislative grant of these powers, but the requisite liberty freely to exercise them. This means the right of the citizens of a municipality subject to limitations applicable to all

cities to frame their own scheme of local government, to carry their local public policy into practical effect by their own self-selected methods of administration, subject, to the extent that the local policy occupies the same field as the general State policy, to State administrative supervision. Why should not the Legislature, under a properly devised law, permit the city's own citizens to select from themselves a local convention to frame the local government? Why should not the Legislature be as willing to enact the result of the deliberations of such a convention into a statute as the recommendations of its own appointees or of a charter commission named by the Governor? No constitutional amendment is needed for either of these purposes.

To refer again to the recent charter experience of New York City, what constitutional difficulty prevented the Legislature of the State of New York from authorizing the citizens of the territory to be included in the new municipality from holding an election for members of a charter convention which should prepare a scheme of local government? What constitutional difficulty need have prevented the Legislature from ratifying the scheme so prepared? Why could not the Pennsylvania Legislature grant free government, self-government, to Philadelphia, if it chose, or to Pittsburg? The Legislature of Ohio to Cleveland? The successful results already achieved in St. Louis and Kansas City, whose cititzens have to some extent the freedom to frame their own city charters, and the substantial progress in the same direction made by the cities of California and Washington, show how much more could be accomplished and how much better results with more freedom.

The much needed change from legislative to State administrative supervision of the local administration of general State policy

can be accomplished by statute without any change in the constitution. We already have such State administrative departments in successful operation. They are not an innovation. The State policy as to any public matter, *e. g.,* education, health, police, excise, the care of the insane, of paupers, can be, and in many States is, carried out very easily or its administration supervised by the appropriate State administrative department when the Legislature permits.

There is one needed grant of power to cities, however, that can only be made through a constitutional amendment. Our present nomination and election methods in city, State, and nation are the subject of just criticism. They have shown themselves inadequate to the requirements of a democratic republic under the complex conditions of modern industrial civilization. The characteristics of that civilization both for good and for ill are most marked in our cities, and, naturally, in our largest cities most of all. Many thoughtful men are firmly convinced that present electoral methods are as outgrown and have been proved to be as ill-suited to existing needs as the device of an electoral college for the choice of President; some are strong advocates of minority or proportional representation; many others, while not convinced that the remedies for the evils in our electoral methods have yet been found, are no less convinced of the existence of the evils, and all can agree that the last word has not been said on the proper solution of the grave questions involved in determining the proper methods of nomination and election to public office in a democratic republic.

That some remedy will be found is certain. To think otherwise would be to despair of the republic. But to discover and apply remedies, to demonstrate by actual experience which is the

better or the best remedy, there must be freedom to act. The highest public good requires that the Constitution should guarantee to each city, subject alone to the restriction that a democratic-republican form of government be preserved, complete freedom to control the methods of the exercise of municipal suffrage in purely municipal elections.

If the faith of our fathers still lives in us, if we believe in the underlying principles of democratic-republican government we shall never cease our efforts till some practicable and adequate method for the complete application of those principles finds fair opportunity in the conduct of municipal government.

THE CITY IN THE UNITED STATES—THE PROPER SCOPE OF ITS ACTIVITIES

ALBERT SHAW

If I were asked to characterize in a single sentence the broad distinction between the history of the past thirty years of municipal government in Europe, on the one hand, and America, on the other, I should say that in the United States we have been making and unmaking municipal charters, and meanwhile administering them as badly as possible, while in Europe they have been bending their energies to the work of administering progressively and well such charters as their cities found provided for them in the general statutes. In other words, we have been making, marring, unmaking and repairing municipal mechanisms, while the people of European cities have been using their municipal machines to accomplish results in the way of an improved life for their people. I do not mean to say that the conditions of life are more advantageous for the average man to-day in European towns than in our own. On the other hand, I am entirely prepared to assert that almost all the natural advantages belonged to us, and that if our municipal governments had been anything like as relatively efficient as those of the European towns the results achieved by us would have been vastly ahead of those that the best towns in England, Scotland, and Germany have been able to secure.

The main outline of the English Municipal Corporations act has now sufficed for sixty-three years. It applies uniformly through-

out the country, except in London. The French Municipal act, although materially revised some fifteen years ago, represents a fairly stable system which has its roots buried deep in the sweeping administrative reforms of a hundred years ago. The Prussian system, revised, of course, very considerably in more recent times, remains, nevertheless, recognizable in the main as belonging to Stein's period of administrative reform some ninety years ago. The Italian and other European systems are more recent, to be sure; but they are built upon permanent and stable lines, and their evolution has been distinctly in the direction of scientific unity and symmetry. Paris and Vienna, like London, came under an exceptional régime by reason, on the one hand, of their exceptional size and cosmopolitan importance, and on the other hand by reason of their peculiar relationship to national life and national government. Otherwise the municipal systems are, as respects their framework, uniform throughout the countries concerned.

The tendency in all those countries, however, has been, while prescribing the general form of municipal government and making that form familiar, identical, and permanent, to give each individual municipality in matters actually concerning the life of that community alone, a very wide range of liberty in determining for itself what from time to time should be the diminished or expanded scope of its functions. Thus the English cities have been spared the task of raising from time to time the question of the distribution of power, for example, as between the Mayor and the Council. The charter of 1835 settled that question once for all. Nor has it been for them to raise the issue whether or not they would have separate municipal elections. That question was settled for them all, in the only right way, at the very outset.

Of course, a municipal corporation should have a separate election; and, of course, the choosing of its officers should not be mixed up with the election of members of Congress or Presidential electors. Nor have the English cities ever been permitted to bother themselves with discussions of the question whether or not a municipal Council should sit as one body or should be divided into two chambers, to correspond to the House of Commons and the House of Lords. At the very outset in England, as in all other European countries, they have been wise enough to settle that question by general legislation for all municipalities. And so with many other questions involving the mere structure or framework of the municipal government.

There is no advantage in leaving it to a town to decide for itself whether it will repose the appointing power in the Mayor or in the City Council, or apportion it, giving some of it to the City Council and a good deal of it to a series of administrative boards. When such questions are worked out separately for each community, whether or not the alterations are—as, of course, they usually are—nominally ratified by the Legislature in a special act, such changes are almost never brought about for really broad and conclusive reasons of public policy. We have all witnessed very many such changes in the United States, and almost without an exception all the changes have been made in order that a certain set of individuals, holding temporarily an advantageous position, might profit at the expense of some other set of individuals and at the expense of the community at large. The municipal charter changes of the past thirty years in the United States, as embodied for the most part in special acts of Legislatures, would fill a very large library. Yet the science of administrative law has derived very little benefit from the work that went

into the framing of these thousands upon thousands of statutes. It is not intended to include in this disparagement, however, the work of a considerable number of special charter commissions which have for good reasons been appointed to work out an improved scheme of administration for their respective towns. Much of this work has been of an admirable character; but the trouble has been that the wise views embodied in the reports of such commissions have—even if at first adopted—been subject to radical and arbitrary change, often at the very next session of the Legislature, for the benefit of some clique, or party, or conspiracy of self-seeking politicians or grasping private interests. The main outlines of a municipal system should be uniform throughout all the towns of a State, and there is no particular reason why a fairly workable American system might not tend, at least approximately, toward something like uniformity throughout the whole country. This point of view has found expression in the draft of a municipal charter which has been submitted as a part of the Municipal Program.

When, however, it comes to the question what these more or less uniformly organized municipal corporations shall do from month to month and year to year—what services they shall render to the men, women, and children who are the constituents or elements of the municipal corporation—nobody can decide so well as the individual municipality how far it will carry its activities and in what variety of ways in detail it shall make itself serviceable to its citizens. The theory of the municipal corporation in Europe, to speak in general terms rather than with legal exactitude, has been developed somewhat as follows: The conditions of industry, traffic, and social intercourse have from the earliest times resulted in those aggregations of population that

we call towns. Modern conditions have greatly accelerated the tendency to flock together in densely inhabited communities. The progress of civilization has rendered many common services either practically necessary or else highly desirable, while on the other hand the progress of science and of wealth has shown the way to the common supply of such needs or desires. The State itself, on its own part, is affected in its life and functions by the development of civilization and the progress of science.

The police power, for instance, is always inherent in the State. Changing social conditions and the advance of civilization have rendered more imperative and more exacting the duties of the State in the direction of the maintenance of order and the general exercise of functions growing out of the police power. It is the business of the State to provide a minimum uniform standard of requirements for the general enforcement of State laws and the general exercise of the State's police authority. As a matter of convenience, however, it has been found well in Europe to make the municipal corporation the agent of the State for the exercise of at least certain parts of the State's police authority within the limits of the municipality, while it has been recognized as the proper function of the municipality to exercise still further a more particular police jurisdiction on its own behalf, in order to provide more completely for the safety and well-being of the population under the conditions peculiar to the town as distinguished from country districts, or peculiar to the particular town as distinguished from some other municipality.

In like manner the municipality may act as the agent or local representative of the State in the administration of the poor-laws, a portion of the penal laws, and a portion of the educational system of the Commonwealth, while in its municipal capacity and on

its own account going very much farther to provide a variety of educational establishments, such as high schools and technical schools, free public libraries and art galleries, besides the requisite elementary minimum to give its own rising generation the widest possible opportunities of instruction and enlightenment. In the same way, over and above the sheer relief of pauperism and destitution, the city on its own account may, and ought to, exercise its own discretion as regards the carrying out of a number of modern ideas and plans respecting public charity.

In Europe, then, it is the theory of the functions of municipal government that after the populous community, organized as a municipal corporation, has observed those duties devolving upon it as the agent of the higher political authority, it may advantageously proceed to work out its own municipal life for the welfare of its citizens, with a very large measure of freedom. My time will not, of course, permit me to turn aside from the main trend of my argument to discuss the advisability of certain checks and limitations upon the exercise of this municipal freedom—such checks, for example, as the administrative control of a central board, or the supervisory authority of a State auditing officer, or other methods that may be found by experience to be useful. We are not for a moment advocating any extreme innovations, nor are we repudiating any prudential checks of a general nature that may be found in experience to work usefully. We are simply contending for the main proposition that the city may well be left to work out its own destinies upon the basis of a very broad liberty as respects the scope of its functions.

Again, we do not mean that the city should not exercise its functions as respects a particular subject under the guidance of certain well-established and prescribed principles. For example,

a given city should be free to establish its own electric lighting or gas plant, or, if it prefer, grant a charter to a private lighting company, with the further freedom of buying out the private company and proceeding thenceforth by direct municipal operation or by lease of the municipal works. Here one finds a variety of options, and there is no reason why those options might not be still further varied. Subject to certain parliamentary processes, the English and German cities, for example, are practically at liberty to deal in any one of these ways with the public lighting question. When, however, it comes to the question of granting a franchise to a private lighting company, the municipal authorities find that there exists, very properly, a general statute, applicable to all municipalities, fixing, in England, for example, at twenty years the period for which the franchise can be granted, and establishing other reasonable principles for the sake of uniformity, and for the sake of guarding any particular community against a bad contract growing out of the inexperience of the public authorities or out of the undue pressure of private interests.

The general laws in England and in Germany, in like manner, have fixed and prescribed important principles in sanitary administration, and the health standards which constitute the national minimum are constantly becoming more rigid and scientific. Nevertheless, there remains a very large margin of advantageous opportunity lying beyond the minimum of sanitary regulation, and it behooves the enlightened community to provide for its citizens the purest and best available water, to close contaminated wells, to establish sewers and enforce sewer connections, to dispose of the collected sewage in a healthful and advantageous manner, to enforce some suitable system for the collection and frequent removal of garbage and domestic waste and

the disposal of such materials, while also providing for the suitable cleansing of streets and public places. Further than that there is a large field of municipal opportunity in the direction of the extermination of every form of infectious and contagious disease; and the extent to which modern bacteriological knowledge is utilized in practical municipal administration really, in my judgment, marks the stage of advancement to which any given municipality has attained. The State itself may make certain requirements by general statute and exact a reasonable minimum of excellence in health administration; but obviously the municipal authorities, as respects their own communities—if they serve their communities well—must go far beyond what is possible for the State to prescribe and enforce.

It is certainly an anomaly, from which we must try to deliver ourselves in this country, that a private corporation may be formed, at no expense and with very doubtful capital and financial responsibility, for the sake of invading a municipal corporation, there to perform public functions of the highest importance, such as municipal transit, for example, while the municipal corporation itself, having the highest and the most vital interest in that whole matter, is placed at a disadvantage by the laws of the State, so that it is altogether likely to be severely discriminated against if it should try, on its own behalf, with the entire approval of the great body of the citizens, to render such public services.

New York of late has afforded an interesting illustration of this disadvantage. The proposed underground rapid transit system —to have been constructed on the financial responsibility of the municipality itself—was carefully worked out on the best of plans and in a manner to bear the closest inspection. It was in every

way necessary and desirable. Yet the series of artificial obstacles placed in the way of the municipality by foolish and needless constitutional and statutory provisions has for years blocked the way. These needless limitations upon the freedom of action of the municipality are merely playing into the hands of selfish private interests, while the community at large suffers without hope of redress. It is precisely against such a state of affairs that your committee makes protest.

It is not that the proposed Municipal Program advocates the municipal construction, much less the municipal operation of a transit line. It does not at this moment devolve upon us either to advocate or to condemn any particular innovation or extension of municipal functions. What we contend for is that in all these matters, affecting in vital ways the very life of the community, such as the water supply, the lighting supply, the cleansing service, methods of transit and others more or less analogous, the municipal corporation ought to be in as good a position under the law as any private corporation to engage directly in the business of supply, We are entirely ready to admit the desirability of general laws to guard against certain possible crudities or abuses of such functions, and certainly would not any of us object to a well-organized administrative oversight on the part of the State, both of the financial and of the engineering or technical aspects of every kind of business enterprise that any municipality might be prepared to enter upon. Local corporations in the State of New York, for instance, may go into the business of supplying water, and may go into the business of constructing and operating a system of sewers, but the laws provide for a fairly advantageous kind of State oversight which does not hamper, but, on the contrary, helps to guarantee the effective exercise of the local func-

tion. The municipal corporation might well have the same kind of freedom with respect to public illumination, public transit, and various other matters.

While a percentage limitation upon the debt-incurring power of the municipal corporation may be a convenient sort of check in a general way, such form of limitation is sometimes extremely embarrassing and not justifiable by the facts. It would seem, therefore, that there ought to be excepted from the indebtedness permissible under such a percentage limitation the liabilities incurred for the construction or purchase of water supplies, lighting plants, or transit lines, where in the very fact of the monopoly character of such business it is wholy obvious that the rates can always be made both to pay operating expenses and also to meet interest and sinking-fund charges. In a broad way, therefore, it would be our judgment that for the sake of the progress of our municipal life there should be recognized in municipal finance a clear distinction between indebtedness incurred in non-productive public improvements, and the indebtedness which is, after all, no burden whatever upon the taxpaying power of the community, because altogether protected by the productive character of lucrative municipal assets. With such a reasonable distinction maintained and enforced in New York, for instance, several recent deadlocks of a deplorable sort would have been obviated. For example, the proposed new public library, for which the city was to provide the site and building, while the amalgamation of the Astor Library, the Lenox Library, and the Tilden Trust were to furnish several hundred thousand volumes and a magnificent endowment fund, seemed indefinitely hung up by the Controller's decision that we had already crossed the line of the debt limit. The payment of school teachers' salaries and necessary improve-

ments in the department of elementary education were in like manner jeopardized. Nevertheless a large amount of money had of late been expended in the construction of new docks, which were carefully projected as a lucrative public asset, and which had already been leased in advance at a safe percentage of remuneration to responsible steamship companies. The bonds for such improvements as these new docks do not burden the taxpayers to the extent of a single penny, because the steamship companies will not only pay the interest and provide the sinking fund, but also something in addition as clear revenue.

It was absurd, therefore, that the municipal corporation should find itself, by constitutional safeguard of the debt limit, in a position where it was unable to take advantage for its people of the munificence to the extent of millions of dollars of the philanthropically provided library organizations that are extending to the municipality of New York the best opportunity that has ever been extended to any city in the world to have a great public library at comparatively small expense to the taxpayers. There is no reason in the nature of things why the proposed underground transit scheme, which would certainly pay its own way, and the municipal dock improvements, which are a lucrative asset from their very inception, should be considered a part of the public debt in the sense of the constitutional limitation. Where such enterprises are inspected and approved by duly qualified State authorities as being safely in the class of municipal assets to be designated as self-sustaining or productive, it would seem wise that they should be placed in a different category, so that the municipality might have the same freedom as private corporations to enter upon these supply services, while not embarrassing itself in the necessary work of supplying schools, cleaning the streets,

and maintaining a high standard of sanitary administration. The fact that the New York Controller was subsequently able to change his bookkeeping methods and alter his aggregate debt figures, in such a way as to find a margin for some of these necessary expenditures, does not lessen the force of the illustration.

In the moments remaining it will be in order to say something briefly respecting the nature and contents of Article Third of the proposed Constitutional Amendment, and more especially of Article II of the proposed Municipal Corporations Act. These articles on the powers of cities intend, in the frankest way, to confer a very broad and general liberty upon the municipal corporation to do things, local and municipal in their nature, which do not interfere with the general work of the State government, nor with the rights and immunities of communities or individuals. The power of the city to acquire property is made exceedingly broad, and the exercise of the right of eminent domain is conferred upon the city in a manner which the manifold work of the modern municipality really justifies and requires. For various purposes it is frequently desirable that the municipality should own land outside of its own limits—such, for example, as the protection of the sources of its water supply, the maintenance of sewage disposal farms, the establishment of public cemeteries, the creation of outlying parks and pleasure grounds, and so on. For public purposes the municipal corporation may be safely intrusted with the power to exercise the right of eminent domain outside as well as inside the corporate limits. In the making of a public park it is reasonable to allow the municipal corporation at its discretion to condemn more land than it needed, in order by the subsequent sale of environing portions to defray in part the cost of the park. And we are further of the opinion

that the municipality should have the power at its discretion to pay for at least some part of the cost of a park, or other comparable public improvement, by a graduated system of special assessments levied upon benefited property.

In the articles under discussion it is the intention to give the municipal corporation the fullest possible authority over the ground plan of the town—than which nothing is more essential to the future well-being of the population; and the location and creation of the streets should be accompanied by full authority over the general construction of the town as respects street lines, the harmony of façades, the height of buildings, and, further, than that, of course, on sanitary grounds, the regulation of the conditions of inhabitancy. The power to establish and maintain markets and to control all such services has everywhere been found advantageous, not merely on the ground of the economic welfare of the majority of the people, who certainly are enabled to live more cheaply where public markets prevail, but also manifestly because the system of public markets, abattoirs, and the like is eminently conducive to that strict inspection of milk, meat, and other food supplies, that is so important a branch of the sanitary administration of every well-regulated modern town.

The question whether or not elementary education should be vested in the hands of a distinct school government operating within the same territorial limits as the municipal corporation is one upon which it would not be wise, perhaps, to enter in this paper. If the course of our educational history had not, as a matter of fact, in most parts of the United States, as well as in England, differentiated public-school administration in a more or less complete fashion, it is probable that the students of municipal and local administration would think it altogether best for sym-

metrical local progress if all branches of local governmental administration were reduced to a single unified and symmetrical system, and this is the opinion of the committee. In any case, within the territorial limits of the modern municipal corporation there should be lodged a very wide liberty of discretion in the matter of establishing for the community such educational opportunities and advantages as the best wisdom and enlightenment of the citizens may prescribe and as the public purse may be able to support.

The earlier part of this paper has anticipated the remarks which at this point might otherwise have been made respecting the breadth of discretion the municipal corporation ought to enjoy in the development of its administrative duties in the fields of public charity and correction, and has also sufficiently outlined the position of the committee and the point of view of the proposed Municipal Corporations act on the subject of street franchises.

Your committee concurs with hearty unanimity in the opinion that in the exercise of functions under a broad and generous grant of power every municipality should be held to the very strictest obligation in its accounting, and that the accounts of all the municipalities in the State should be kept upon a prescribed and uniform plan, and should be submitted to a State officer, where they should be compiled upon a well-devised scheme, and when thus tabulated and placed in due comparison with one another that they should be printed and made easily accessible to all citizens. There is no check more salutary than the check of publicity. If our towns are disposed to go into the business of municipal gas works, for example, they should be held, like the English towns, to strict reporting, so that it may be readily seen

which town manages its works best and which is doing worst. The results of public administration should also be brought into the most unsparing contrast with the results of private administration. With good accounting, upon a clear and understandable system, with uniformity throughout the State, and, so far as possible, with a tendency toward interstate uniformity, with periodic reports and prompt and regular intermunicipal tables, a very stimulating and valuable check is at once placed upon unwise, dishonest or slovenly municipal administrations, and an opportunity is readily afforded for each municipality to benefit by the experience of all.

THE PLACE OF THE COUNCIL AND OF THE MAYOR IN THE ORGANIZATION OF MUNICIPAL GOVERNMENT—THE NECESSITY OF DISTINGUISHING LEGISLATION FROM ADMINISTRATION

FRANK J. GOODNOW

It is possible to distinguish in all forms and grades of government two ultimate or primary functions: The one consists in the determination of the public policy; the other in the execution of that policy after it has been once determined. The one function is legislation; the other administration. This distinction of governmental functions has been made from an early time and is at the basis of that fundamental principle of American constitutional law usually referred to as the principle of the separation of powers. It is a distinction based upon a sound psychology. In the case of a single sentient being the will must be formulated, if not expressed, before its execution is possible. In the case of political bodies, which are more and more coming to be recognized as subject to psychological law, not only must the will or policy be formulated before it can be executed, but also the very complexity of their operations makes it almost impossible to intrust the same authority as well with the execution as with the determination of the public policy. This is so not merely because the function of determining the public policy requires deliberation while the function of its execution requires quickness of action, but also because the burden of government is too great to permit of its being borne by any one authority.

It is, of course, true that the absolute separation of the two public authorities which may be respectively intrusted with the discharge of these two governmental functions is not always possible. Conflict might ensue, resulting in governmental paralysis. At the same time, unless these functions are clearly distinguished, efficient administration is too apt to be sacrificed in order to secure the adoption of a desired legislative policy. "Politics" will of necessity affect administration, not only in its action, but also the organization of the public administrative service, with the result that qualifications for even clerical and technical positions will become political questions. The consequent administrative inefficiency is not the only evil; the treatment of purely administrative offices as political in character renders difficult the discharge of the function of legislation in such a way that the policy determined upon will reflect the wishes of the people. The treatment of the administrative service as political patronage renders both administration inefficient and legislation corrupt.

These considerations are true of all government. They are, however, particularly applicable to municipal government since municipal government is peculiarly a matter of administration. Municipal government has of recent years been frequently characterized by those interested in its improvement as a matter of business and not of government. What is meant by this characterization is really not that the criteria of municipal government are the criteria of business, industry, or commerce—not, *e. g.*, that the determination of a policy of sewerage or water supply or clean streets is to depend upon the question whether the adoption of such a policy will bring in an adequate pecuniary return—but that success in city government is to be expected only where the offi-

cers of that government, whose duty it is to carry out an adopted policy, are efficient. In other words, what people mean, when they say that municipal government is business, is that municipal government is administration.

In State and national government new questions of policy are continually coming up, upon whose solution the very existence of modern society depends; in municipal government the appearance of such questions is rare. The work of the city and its officers is rather the consistent, continuous administration of policies which have been determined upon and which should remain for a comparatively long time unchanged. The efficient carrying on of this work of administration demands under modern municipal conditions, not merely great technical knowledge of the arts and sciences which every city must apply, but as well an intimate knowledge of the local conditions to which these arts and sciences are to be applied. This means that efficient municipal administrative officers must have both a wide general and technical knowledge and reasonably permanent positions.

Such from the purely administrative point of view is the position of the modern city, and such are some of the conditions which must be satisfied if city government is to be efficient.

The city has also a policy to be determined upon, a will which it must express before it can begin its work of administration. It goes without saying that a city primarily is a local government. That is, while it is a part of the State in which it may be situated, it may be clearly differentiated from other parts of that State. The mere fact that it has in the eyes of the law a personality distinct from that of the State—that it is, in other words, a municipal corporation—is ample proof that it has interests of its own sepa-

rate and apart from those of the State as a whole. This makes it necessary that the policy to be adopted with regard to these interests should be a matter of local determination. If it were not so, of what use is it to give it its separate personality and its separate organization? It is true that its interests while in many respects peculiar to itself, are in some others common to the State as a whole, and that therefore the determination of its policy with regard to these latter interests should be subject to the control of the State. But it is also true that even as to these matters the city should have something to say, while it is equally not susceptible of doubt that as to matters in which the State as a whole has little if any direct interest at all, the city should not merely have something to say, but what it says should be paramount.

In other words, whether looked at from the point of view of those matters which interest both the city and the State, or of those which interest the city alone, the city has a local policy which should be the subject of local determination, as well as of local administration.

What form of municipal organization now will facilitate the efficient local administration of a local policy which shall be locally determined? The word " facilitate " is used advisedly, since it is unquestionably true that this end can not be assured by any mere system of municipal organization. It is still true, however, that the character of the municipal organization is an important factor in the problem. The important influence of the form of municipal organization upon the problem of securing the local determination of the local policy can be made clear, perhaps, by a reference to the history of municipal development in the United States.

The original American municipal organization consisted of a council in which, speaking generally, were vested whatever powers were granted to the municipality. This council was believed to be unsatisfactory in later American political conditions, and little by little its powers and functions have been taken from it, until as Mr. Francis Lowell has said, it has come to bear about the same relation to the body politic of the city as the vermiform appendix bears to the body human. Its presence becomes manifest only on the occasion of what might be termed an attack of "councilitis," caused most frequently by the absorption by its members of food which is not legally digestible. For a long time the municipal doctors have almost invariably prescribed for the diseases which afflicted the city, an operation similar to that which the doctors of medicine have been so frequently prescribing for their human patients, *i. e.*, the cutting away of the offending member.

The result of a too frequent and too ruthless resort to the knife in the case of the city council is well known by those who have studied the subject carefully and is becoming recognized at the present time by all. The power of determining the local policy has been transferred from the city to the State Legislature. The destruction of the city council has not destroyed council government. It has simply made local policy a matter of State legislative determination. The body which determines municipal policy is no longer a local council with any sense of responsibility to the people of the city, but a central council elected by the people of the State as a whole. Such a body in the nature of things can know little of local conditions; moreover, it has not always been actuated by the best of intentions toward the cities, and, dominated by the State and national political parties, has not scrupled to sacrifice municipal interests to those of partisan politics.

Such a result is not a mere accident. To consider it such shows a misapprehension of the American scheme of government. If there is anything which is settled in our constitutional law, it is that the taxing and the spending powers, through whose exercise governmental policy is largely determined, are legislative in character. No municipal body, therefore, not theoretically representative in character will be long intrusted with the large financial or other legislative powers formerly possessed by the city council. Most of these powers will, if the council is deprived of their exercise, be exercised directly or indirectly by the State Legislature, which is generally regarded as more representative in character than administrative officers or boards ever can be.

If, then, municipal home rule is of any importance, *i. e.*, if it is important that the local municipal policy shall be locally determined, a city council, *i. e.*, a local legislature, is an essential part of the municipaal organization.

A city council is a necessary factor in the municipal organization, not merely because without it municipal home rule is impossible, but also because without it the distinction between the functions of legislation and administration, which has been shown to be so necessary in municipal government, can not be made. Not only was the gradual destruction of the city council in the United States accompanied by the increasing assumption by the State Legislature of the determination of municipal policy, but almost all municipal legislative and administrative powers not directly exercised by the Legislature gradually came to be vested in the Mayor and other municipal administrative officers. The charters of the cities of New York and Brooklyn before their recent consolidation are good examples. In these cities the coun-

cils had ceased to be of any importance, and substantially all local powers permitted to the cities, which, as compared with those formerly possessed by the council, were neither numerous nor important, were vested in the Mayor and the city administrative officers. The enlarged powers of the Mayor and heads of departments after the destruction of the council gave them really the power to determine the local policy, so far as that could be determined locally. Popular government had to be secured, even at the expense of efficient administration. The important officers in the administrative service of these cities consequently ceased altogether to be permanent in tenure, and it was considered almost a matter of political principle that each incoming Mayor should appoint new incumbents. Such an arrangement made the highest administrative efficiency impossible, but it was the nearest approach to popular government left to the people of those cities.

What is done by this form of government, *i. e.*, a council with little if any power and a Mayor and heads of departments acting largely independently of the council, is to create new local policy-determining bodies of a different form and composition and without the large local powers of the original council. Such a plan, if carried to its extreme logical result, might have the advantage of concentrating responsibility for the exercise of the few local powers granted, but it always has the serious disadvantage of making impossible the distinction between legislation and administration and of almost precluding permanence of tenure for administrative officers.

The council, *i. e.*, a local legislature, is thus necessary both in order to secure home rule and to make it possible to distinguish between legislation and administration in municipal government.

But it will be said the city council has not in the past been satisfactory in the United States; why should we suppose it is going to be any better in the future? It will not be any better if, as formerly, it is to exercise administrative functions. The local, like the State, legislature, should be strictly confined to legislative work. This is its only legitimate field of activity. The council therefore must be denied the exercise of all administrative powers, which should be exercised by the Mayor and his subordinates.

This fundamental distinction of legislation from administration is an essential part of the plan of municipal organization contained in the accompanying drafts of constitutional amendments and general municipal corporations act. This plan provides for a city council with large powers of a legislative or policy-determining character. At the same time it vests all administrative power in a Mayor, who, like the members of the council, is elected by the people of the city, and who has the power of appointing and removing his immediate subordinates. The attempt is made also to secure reasonable permanence of tenure for the general administrative service of the city by providing fixed terms of office for no one except the Mayor and members of the council. It is believed that the Mayor, having the power of removal during his entire term, will not be so inclined to remove the officers he finds in office, as if their terms were fixed and expiring with the term of the Mayor who appointed them. Provision is also made for appointment of subordinate officers for merit to be shown by competitive examinations and that no officer shall be removed for political reasons, nor before a statement of the reasons of the removal has been filed by the Mayor if requested by the officer removed. It is hoped that these provisions, while not interfering with discipline, will induce permanence during efficiency and

good behavior in the municipal administrative service, and will be of assistance in preventing both council and Mayor, who are representatives of the people, from injecting politics into the administrative service of the city.

The strict separation of legislative from administrative functions, the absence of fixed terms of office and the exclusion of politics from the administrative service of the city are among the most important features of the proposed scheme of organization. That they, or indeed any devices will be sufficient in themselves to secure the necessary distinction between legislation and administration may, of course, be questioned. But it is submitted that they are peculiarly adapted to the end in view, because they are in harmony with the general spirit of our government, and incorporate the ideas which are at the basis of all successful municipal government. It is, of course, true that theoretically the council of the English city has both legislative and administrative powers. As a matter of fact, however, the English city council does not intrude into the details of administration. These are attended to by its permanent administrative force, into which questions of party politics do not enter. While the functions of administration and of legislation, *i. e.*, of determining questions of policy, are not thus in the English city separated by law, they are actually separated because of the presence of a sound public opinion, the result of many years' experience of the benefits of the separation.

In this country, for reasons too well known to require recital, resort must be had for some time to come, as is the case in both France and Germany, to the more formal checks of constitutional or statute law in order to keep politics out of administration in our cities and thus to secure efficient municipal government.

The adoption of the form of organization which has been proposed will be a most encouraging indication of the growing appreciation of the soundness of the principles underlying it, and it will of itself aid greatly in developing in the future a stronger and sounder opinion relative to governmental matters. Our government will in none of its forms be satisfactory until the general body of the people grasp the conception that administration, *i. e.*, the execution of policy, is a field of governmental activity in which politics, *i. e.*, the function of determining policy, should not enter. That such a conception was not grasped for so long a time in the United States is very largely due to the fact that our social and political conditions have been until recently comparatively simple. The field of administration was, as compared with the whole field of government, a small one. Inefficiency in that field was not felt to be serious, because almost all that it involved was increased expense; and our enormous material resources made expense a matter of comparative unimportance. But as our population became denser and our civilization more complex, new needs were felt which could be accorded satisfaction only by the enlargement of the field of administration. The incidents of modern civilization, such as railroads, the factory, banking and insurance systems, the modern educational system, the great systems of modern public works, improved methods of preserving the peace and insuring the public safety, have all emphasized the administrative side of government. The larger the field of administration the more noticeable have become the effects of administrative inefficiency and the more forcible the demand that politics should be excluded since it soon became evident that this administrative inefficiency was due in large part to the intrusion of politics into administration.

Further, our general administrative system was, until within the past thirty years, of such a character as to render easy the confusion between legislation and administration which has been noticeable in American political life. This system was characterized by great legislative centralization and great administrative decentralization. The Legislature regulated by very detailed statutes the powers and duties of all officers, many of whom were locally elected and most of whom had as a matter of fact great discretion in the execution of this detailed legislation. For these officers were very commonly subject to no central administrative supervision in the execution of the law, and, where occupying at all important positions, were also very largely independent of any local supervision. The system provided for the administration of the law was not merely decentralized, it was also not concentrated.

Now, the fact that these officers were free from supervision in their execution of the law really made them political as well as administrative officers. Subject only to the control of the courts, which could not in the nature of things be really effective, they enforced the law or not, as they saw fit. The result was that the function of the determination of policy was not completely discharged by the people when they elected their theoretically policy-declaring body, the Legislature. They must not merely elect members of the Legislature to make the law, they must also elect officers who would enforce the law. On the other hand, from the practical point of view, it was not necessary for them to elect a new Legislature if they wished to repeal a law, *i. e.*, if they wished to cause a law to cease to be a rule of actual conduct. They need only elect officers who would not enforce the law. The prohibition and Sunday closing laws, for example, have often been made mere dead letters through the intentional failure of admin-

istrative officers to enforce them. More than one election has been fought out in this country on the avowed program of the non-enforcement of an obnoxious liquor law. School and health laws were often treated in the same way. Thus in Massachusetts the compulsory attendance law was for a long time not enforced; in New York for more than thirty years the law providing for the formation of local boards of health was persistently and generally violated.

This method of regarding administrative officers could not fail to cause a confusion between legislation and administration. To it, it is believed, is largely due the ease with which the spoils system was established and became so universally adopted throughout the country. For it was an easy thing to apply to appointed administrative officers the test that had been applied to elective administrative officers, viz., that their political opinions should have more consideration than their merit or fitness.

The failure to distinguish legislation from administration and the consequent intrusion of politics into administration resulted in such administrative inefficiency that, when the field of administration became a large one owing to the greater complexity of our social conditions, it was seen to be necessary to make a change, if government was to be carried on with any degree of success. Before, however, much, if anything, could be done to keep politics out of administration, changes had to be made in the general administrative system. That is, the system had to be considerably centralized and concentrated before administrative officers could cease to be regarded as in a measure political in character. This centralization was made necessary also because of the change in our social and economic conditions, brought about by this age of steam and electricity. An administrative

system suited for sparsely populated localities bound together by the stage coach and the mail carrier was unsuited for densely populated districts united by the railroad, the telegraph, and the telephone. What had before been separated were now united. The administration had to be centralized to suit the changed conditions.

This centralization came, as a matter of fact, first in the cities, then in the national administration, and has finally begun to develop in the State administration. It has naturally been most noticeable in those branches of government where the possession of technical knowledge is necessary to the performance of efficient work. The educational administration is an especially marked example of this development, although it is to be seen in the public health and public charities administration, as well as in that of prisons. State boards and commissions with supervisory powers over the administration of the law are common in all the States to-day. This administrative centralization has now progressed so far everywhere that the demand is being made with increasing persistence that the officers who are now under the supervision of a superior and who are not as commonly elected as formerly, shall no longer be treated as political, but shall be regarded, as they really are, as exclusively administrative in character. Teachers, who formerly were appointed as a matter of favor and had a tenure of office differing in almost no respect from that of other officers, are now appointed because of demonstrated fitness for the work they undertake, and have practically permanent positions. Policemen and firemen in most cities are, if not appointed for reasons of merit, protected against arbitrary removal. Finally the civil service reform movement has attempted to do, for the clerical and other subordinate services, what had already been done for

the teachers and the members of the municipal police and fire departments.

In other words, with the development of new fields of governmental activity, which require for their advantageous treatment large technical skill and knowledge and with the development of a more centralized administrative system, which offers no excuse for treating administrative officers as political in character, the fundamental principle that administration is a field of government in which politics should not enter is making steady progress. Public opinion based upon that principle is demanding with increasing force that in municipal government, which is so distinctly administrative, the function of legislation, *i. e.*, the function of determining policy, must be clearly distinguished from the function of administration, *i. e.*, the function of carrying out policy after its determination, to the end that municipal administration may be efficient and municipal legislation may consist in the determination of a local policy representing the wishes of a majority of the municipal population.

We can do much toward strengthening this opinion by incorporating the principle on which it rests into our municipal organization. For, while public opinion must be back of all law, it is also true that law has much influence in molding public opinion. The civil-service law could not have been passed had there not been a strong public opinion back of it, but it is not to be doubted that the enforcement of the law has done much to strengthen public opinion. Can it be doubted that the incorporation in the municipal organization of this fundamental principle of the separation of legislation and administration will fail to have the same result? Can we hope for any great improvement in municipal conditions unless we take this step?

PUBLIC ACCOUNTING UNDER THE PROPOSED MUNICIPAL PROGRAM

L. S. Rowe

Whatever may be the influence of the Municipal Program of the League on the administrative organization and methods of our American cities, the very fact of its formulation marks a turning point in the history of reform movements in the United States. The most serious charge to which reform associations have been subjected has been that their efforts were confined to destructive criticism, and that they have failed to furnish a positive basis for political reorganization. Anyone who has carefully observed the movement of popular opinion during recent years can not fail to have been impressed with the danger involved in this growing distrust of the ability of reform movements to meet the practical problems of American political life.

To make the energy, which is being lavishly expended by such large numbers of devoted citizens really effective requires the substitution of a positive program for negative criticism. Not only are the shortcomings of our city governments to be dwelt upon, but the positive measures necessary for the improvement of existing conditions must be formulated. To do this requires the most careful consideration of the general principles as well as the technical details of every department of municipal administration.

In the various subdivisions of the general field of public ac-

counting, pioneer work must be done, owing to the absence of any general appreciation of the close relation between systematic public accounting, on the one hand, and administrative efficiency on the other.

The provisions for public accounting in the Municipal Program may for purposes of convenience be grouped as follows:

***a.* The content, arrangement, and publication of financial reports.**

Constitutional Amendments, Article Three, Sec. 4.
Municipal Corporations Act, Article Two, Sec. 15.
Municipal Corporations Act Article Six, Par. 9.

***b.* The financial control over receipts and expenditures.**

Municipal Corporations Act, Article Six, Par. 1, 6, 7, 8.

***c.* The accounts of municipal industrial enterprises.**

Constitutional Amendments, Article Three, Sec, 2. Par. 4.
Municipal Corporations Act, Article Two, Sec. 14, Par. 4.

***d.* The accounts of grantees of franchises.**

Constitutional Amendments, Article Three, Sec. 1, last par.
Municipal Corporations Act, Article Two, Sec. 10.
Municipal Corporations Act, Article Six, Par. 2, 3, 4, and 5.

THE CONTENT, ARRANGEMENT, AND PRESENTATION OF FINANCIAL REPORTS.

Constitutional Amendments, Article Three, Sec. 4.

"Every city shall keep books of account. It shall also make stated financial reports at least as often as once a year to the* in accordance with forms and methods prescribed by him, which shall be applicable to all cities within the State; such reports shall be printed as a part of the public documents of the State, and submitted by the* to the Legislature at its next regular session. Such reports shall contain an accurate statement in summarized form, and also in detail, of the financial receipts of the city from all sources, and of the expenditures of the city for all purposes, together with a statement in detail of the debt of said city at the date of said report, and of the purposes for which such debt has been incurred, as well as such other information as may be required by the*. Said* shall have power by himself, or by some competent person or per-

* State Controller or other fiscal officer.

sons appointed by him, to examine into the affairs of the financial department of any city within the State. On every such examination inquiry shall be made as to the financial condition and resources of the city, and whether the requirements of the constitution and laws have been complied with, and into the methods and accuracy of the city's accounts, and as to such other matters as the said* may prescribe. The* and every such examiner appointed by him shall have power to administer an oath to any person whose testimony may be required on any such examination, and to compel the appearance, attendance, and testimony of any such person for the purpose of any examination, and the production of books and papers. A report of each such examination shall be made, and shall be a matter of public record in the office of said.*"

Municipal Corporations Act, Article Two, Sec. 15.

Essentially the same as Article Three, Section 4, of the Constitutional Amendment cited above, with the additional provision that the financial reports of the city shall be certified as to their correctness by the fiscal officer of the State, or some competent person or persons appointed by him.

Municipal Corporations Act, Article Six, last par.

"The City Controller shall, on or before the 15th day of January in each year, prepare and transmit to the City Council a report of the financial transactions of the city during the calendar year ending the 31st day of December next preceding,** and of its financial condition on said 31st day of December. The report shall contain an accurate statement, in summarized form, and also in detail, of the financial receipts of the city from all sources, and of the expenditures of the city for all purposes, together with a detailed statement of the debt of said city, of the purposes for which such debt had been incurred, and of the property of said city, and of the accounts of the city with grantees of franchises."

The recommendations of the Municipal Program under this head are designed to facilitate that enforcement of political responsibility which has been the end and aim of all recent administrative reforms. The close relation between public accounting and administrative efficiency is most clearly shown in the financiering of private corporations. It is a well-known principle of corporate management that the responsibility of president and directors is largely determined by the annual financial report. That this report should be unequivocal and readily intelli-

* State Controller or other fiscal officer

** This section assumes December 31 to be the end of the city's fiscal year.

gible is one of its primary requisites. Otherwise, the stockholders are deprived of all means of enforcing responsibility. Whenever the system of accounting is defective, or when it has been arranged with a view to concealing the policy of the directors, all real responsibility disappears. At times, it is true, stockholders are willing to submit to such methods in order to avoid franchise taxes or other obligations.

Although the analogy between the management of private and public corporations is often misleading, it is of value in the discussion of questions of financial responsibility. It is quite true that the standards of efficiency in the two cases are quite different. The mere fact of a large treasury balance is no necessary indication of governmental efficiency. A surplus may be due to the failure to repair the deterioration of public works, or to meet pressing obligations. While, therefore, the standards to be applied to the financial reports of private and public corporations are quite different, accuracy and intelligibility are equally necessary in both cases.

The provisions of the Constitutional Amendments and Municipal Corporations Act cited above prescribe:

(1) The content and publication of financial reports.
(2) The presentation of annual reports to the fiscal officer of the State.

The first of these is intended to remedy the evils resulting from the lack of trustworthy information on important questions of public policy, due, in large part, to the failure of officials to report on the financial condition of the city at stated intervals. The further requirement that the reports shall conform to the system prescribed by the fiscal officer of the State is intended as a guar-

anty that the statements will be readily intelligible and open to but one interpretation.

It must in fairness be said that the present complexity of city reports is due, in large part, to the haphazard and ill-advised State legislation which has burdened cities with an endless series of special accounts. In New York City, for example, instead of permitting the municipality to determine the details of financial policy, the State Legislature has not hesitated to force upon it a great number of expenditures for specific purposes. Many of these have been grouped under "Special and Trust Accounts," and do not figure in the general appropriation account of the city. To add to the confusion the Legislature has pledged certain classes of receipts to the payment of interest on the city debt. Among these we find such important items as ferry rents, court fees and fines, Croton water rents, etc., amounting in 1896 to $4,796,775.51. For the payment of the city debt, important sources of revenue, such as market rents, dock and slip rents, pawnbrokers' licenses, railroad franchises, etc., amounting in 1896 to $5,546,798.21, have been taken from the General Income account. Naturally, the Controller's report mirrors the system of accounting which has been forced upon the city through State legislation. It would, of course, be possible to re-group receipts and expenditures in more simplified form, but this would entail additional labor, and since the term of office of the Controller is usually brief, there is but little incentive to make the change.

It is important to note in this connection that under the proposed Municipal Program (Municipal Corporations Act, Article Six) the changes in the management of the Controller's office will probably be less frequent than at present. The office is removed from the uncertainties of popular election and given an indefinite

tenure. The Council is not likely to endanger the stability of the city's financial system by making frequent changes, particularly when it is not called upon to make a change at any stated period.

With his tenure of office dependent upon the character of his administration, every inducement will be offered to the Comptroller to organize the financial department upon sound principles and to make the statements of financial condition readily intelligible to the citizens. He will thus be able to enlist strong popular support in case of an attempt by the Council to use, for political purposes, its power over the office.

The numerous instances in which public opinion has been unable to reach any definite conclusions—owing to the lack of systematic presentation of financial data—would seem a sufficient reason for these provisions in the Program. One of the most striking instances is the recent leasing of the Philadelphia Gas Works. The conflicting statements of opposing interests were supported by data taken from the same reports. The classification of receipts and expenditures was so confusing that almost any proposition could be read into it. We cannot expect the citizen to subject every public financial statement to critical analysis. He is at the mercy of conflicting interpretations unless the official information furnished him is so clear and unequivocal as to leave no room for doubt.

Another element of no mean importance is the relation of systematic accounting and reports to the financial stability and credit of the city. No business man or private corporation can afford to incur the odium resulting from negligent financial management. Civic life suffers no less than private business relations under such circumstances. Wearied of the uncertainties of the city's financial management, the population is soon prepared to turn over public services to private corporations. The city's credit suffers, further-

more, from the inability of investors to ascertain either the nature of its assets or the productivity of its enterprises. Thus the financial stability of the government is gradually undermined until the stern necessities of impending calamity force a reorganization of the financial system.

The desirability of prescribing uniformity in city reports is so obvious as to require but brief consideration. It is quite likely that this provision will prove to be the first step toward a well-organized system of central administrative control over the finances of municipalities. The important power of inspection and examination given to the chief fiscal officer of the State is in harmony with the best interests of both city and State. The collection of the State's share of general property taxes by the local authorities gives it a real and direct interest in the organization of the city's finances. From the information contained in these reports the State Legislature will be in a position to determine with far greater accuracy than is possible at present the ability of cities to undertake new functions. The system of State examination of local accounts has been tried in a number of States—notably Minnesota and Wyoming. In the latter* the examiner enjoys far-reaching powers, including the determination of the system of bookkeeping and the verification of all accounts of county officers. Refusal of local officers to make required returns or any attempt to interfere with or obstruct the work of the State examiner, is made a penal offense, punishable by a fine of not less than one thousand dollars nor more than five thousand dollars, or by imprisonment in the penitentiary for not less than one year nor more than five years, or both.

Another advantage incident to uniformity in financial reports is

* See Session Laws of Wyoming, 1890–91, Chap. 84.

the possibility thus offered of furnishing every city with the results of the experience of sister municipalities. An accurate record of the financial operations of the cities of the State cannot help furnishing valuable lessons, both positive and negative, provided absolute trustworthiness of returns can be depended upon. The plan proposed guarantees this primary requisite. Finally, the provision under consideration will correct the evils resulting from the irregularity in the publication of reports. Few of our larger cities make any attempt to give to their citizens trustworthy statements of their financial status within six months of the close of the fiscal year. The officials are thus able to escape the responsibility which would otherwise attach to such statements.

As regards the content of the city's financial statements, it may be interesting to note that the annual report of the Auditor of Boston furnishes an excellent instance of a clear and intelligible presentation of financial condition. The general statement of receipts and expenditures and the condition of the city debt is followed by detailed tables, showing "Appropriations and Payments." This is followed by a minute exposition of the income and expenditure accounts arranged alphabetically, a statement of the income and expenditure of the County of Suffolk, and an analysis of city and county indebtedness follows. An appendix to the report contains information on special topics of interest, such as the value of city property, the city's trust funds, and summaries of total expenditures for specific purposes during the last thirty years, such as schools, waterworks, etc.

The report of the Auditor of Cleveland is also worthy of special attention, because of the excellent summary of receipts and expenditures. In its main features this summary conforms to the outline presented in the appendix to this paper.

THE FINANCIAL CONTROL OVER RECEIPTS AND EXPENDITURES.

Municipal Corporations Act, Article Six, Paragraphs 1, 6, 7, 8.

"The Council shall elect, and may by resolution remove, a Controller who shall have a general supervision and control of all the fiscal affairs of the city, to be exercised in the manner which may be by ordinance prescribed. It shall be his duty to keep the books of account and to make the financial reports provided for in Article II, Section 15, of this Act. His books shall also exhibit accurate and detailed statements of all moneys received and expended for account of the city by all city officers and other persons, and of the property owned by the city and the income derived therefrom. He shall also keep separate accounts of each appropriation, and of the dates, purpose, and manner of each payment therefrom.

"The Controller shall examine and audit all bills, claims, and demands against the city, and shall promptly report in writing to the Mayor and to the Council any default or delinquency he may discover in the accounts of any city officer.

"The Controller may require any person presenting for settlement an account or claim for any cause whatever against the city to be sworn or affirmed before him, touching such account or claim, and when so sworn or affirmed, to answer orally as to any facts relative to the justness of such account or claim. Willful false swearing before him shall be perjury, and punishable as such. He shall settle and adjust all claims in favor of or against the city, and all accounts in which the city is concerned as debtor or creditor, but in adjusting and settling such claims, he shall, so far as practicable, be governed by the rules of law and principles of equity which prevail in courts of justice. The power hereby given to settle and adjust such claims shall not be construed to give such settlement and adjustment the binding effect of a judgment or decree, nor to authorize the Controller to dispute the amount or payment of any salary established by or under the authority of any officer or department authorized to establish the same, because of failure in the due performance of his duties by such officer, except when necessary to prevent fraud.

"No payment of city funds shall be made except upon draft or warrant countersigned by the Controller, who shall not countersign any such draft or warrant until he has examined and audited the claim, and found the same justly and legally due and payable, and that the payment has been legally authorized, and the money therefor has been duly appropriated, and that the appropriation has not been exhausted."

The questions here involved are mainly of a technical nature, involving many of the intricacies of administrative organization. The far-reaching powers of financial control given to the Controller assure to the office the importance which it has come to occupy in the minds of the people. In all our larger cities there is a marked tendency to look to this official for the speedy redress of

grievances. When the citizen feels himself injured by the failure of a city contractor fully to meet his obligations, the easiest and usually the most effective remedy is to demand that payment be deferred until further investigation. The remedy is equally effective when a head of department has violated the law in the awarding of contracts or in the making of appointments. The controllers of New York and Philadelphia have not hesitated to use this power in cases in which the Mayor has refused to give relief through his power of removal. In addition to this most important supervisory power this officer is given general control over the accounts of every city official.

With such a combination of powers there is every reason to expect that the office will attract men of the very highest ability. The experience of all our larger cities has shown that with every increase of power there has been a distinct improvement in the character of the candidates. Under the system proposed, failure to perform official duties faithfully and efficiently will carry with it consequences which no individual, and certainly no political party, can afford to meet.

ACCOUNTS OF MUNICIPAL INDUSTRIAL ENTERPRISES.

Constitutional Amendments, Article Third, Sec. 2, Par. 4.
Municipal Corporations Act, Article Two, Sec. 14, Par. 4.

Under these provisions the following classes of bonds are not to be included in calculating the limits of city indebtedness:

"Bonds authorized by the affirmative vote of two-thirds of the members of the Council, approved by the Mayor, and approved by the affirmative vote of the majority of the qualified voters of the city voting upon the question of their issuance at the next ensuing city election, for the supply of water or for other specific undertaking from which the city will derive a revenue; but from and after a period to be determined by the Council, not exceeding five years from the date of such election, whenever and for so long as such an undertaking fails to produce sufficient revenue to pay all

costs of operation and administration (including interest on the city's bonds issued therefor and the cost of insurance against losses by fire, accidents, and injuries to persons) and an annual amount sufficient to pay at or before maturity all bonds issued on account of said undertaking; all such bonds outstanding shall be included in determining the limitation of the city's power to incur indebtedness, unless the principal and interest thereof be payable exclusively from the receipts of such undertaking. The City Controller shall annually report to the Council in detail the amount of the revenue from each such undertaking and whether there is any, and, if so, what deficit in meeting the requirements of its sinking fund."

With the exception of the provisions here cited, the Municipal Program contains no recommendations either in the Constitutional Amendments or in the Municipal Corporations Act. This omission has been dictated by a desire to limit the Act to the general principles of municipal organization.

It is important to point out, however, that the experience of the last few years has shown the far-reaching consequences of unsystematic accounting in the industrial enterprises of the municipality. Here again the recent leasing of the Philadelphia Gas Works furnishes a striking instance. After some fifty years of municipal management the works were turned over to a private company, largely because of the failure of the published accounts to give a correct statement of the financial condition of the enterprise. Each year the published reports showed a large surplus which stifled the criticism to which the management would otherwise have been subjected. In fact, the deterioration in the quality of gas was largely due to the brilliant financial reports. When the attack upon the city's works was opened by the companies desiring to obtain the franchise, it was found that instead of gross profits having been applied to the repair and improvement of the works, no account had been taken of depreciation and deterioration. During the decade 1887-97 over five million dollars of gross profits were used to reduce the tax

rate. Under such conditions it was comparatively easy for the franchise-seekers to show that under city management the gas works had been permitted to sink into a dilapidated condition. The popular feeling aroused by this exposure led to the abandonment of municipal management. Had the financiering of the gas works been made to conform to sound business principles, they would never have reached the low plane of efficiency which made them easy prey for the corporation which now enjoys a monopoly of the gas service.

In any sound system of municipal accounting ample provision must be made to keep all public works at the highest point of efficiency before any surplus is turned into the general city treasury. The accounts of public works should be completely separated from the general treasury account, while the receipts of each public work should be charged with the interest and liquidation of the debt contracted for its benefit plus an amount sufficient to cover the cost of all repairs. Under such a system the true financial status of every public work will be kept before the public eye and thus effectually prevent the periodical raids upon the city's property by private corporations.

ACCOUNTS OF GRANTEES OF MUNICIPAL FRANCHISES.

Constitutional Amendments, Article Third, Sec. 1, *Last Par.*

"Every grantee of such franchises or rights to use shall keep books of account and make stated quarterly reports to the Financial Department of the city, which shall contain an accurate statement in summarized form, and also in detail, of all financial receipts from all sources and all expenditures for all purposes, together with a full statement of assets and debts, as well as such other information as to the financial condition of such grantee as said department may require, and said department may inspect and examine, or cause to be inspected and examined, at all reasonable hours, any books of account of such grantee."

Municipal Corporations Act, Article Two, Sec. 10.

Essentially the same as the above, with the additional provision

that the books of account of grantees of franchises shall be kept and reports presented in accordance with forms and methods prescribed by the City Controller, which, as far as practicable, shall be uniform for all such grantees.

Municipal Corporations Act, Article Six, Par. 2, 3, 4, 5.

"The Controller shall keep a separate record for each grantee of a franchise from the city rendering a service to be paid for wholly or in part by users of such service, which record shall show in the case of each such grantee:

"1. The true and entire cost of construction, of equipment, of maintenance, and of the administration and operation thereof; the amount of stock issued, if any; the amount of cash paid in, the number and par value of shares, the amount and character of indebtedness, if any; the rate of taxes, the dividends declared; the character and amount of all fixed charges; the allowance, if any, for interest, for wear and tear, or depreciation, all amounts and sources of income;

"2. The amount collected annually from the city treasury, and the character and extent of the service rendered therefor to the city;

"3. The amount collected annually from other users of the service, and the character and extent of the service rendered therefor to them. Such books of record shall be open to public examination at any time during the business hours of the Controllers' office."

Probably no other question connected with the government of municipalities has so occupied the public mind within recent years as the relation between the city and public-service corporations. Entrenched behind constitutional and legal safeguards the corporations have been able, under the protection of the courts, to defy the city authorities to a degree which has made it difficult to determine in many instances whether the city controlled the corporation, or *vice versa*. The dangers to our political life involved in such a situation can hardly be over-estimated. In the public mind it creates a feeling of antagonism to such corporations which furnishes the cloak for the most unscrupulous kind of extortion by corrupt politicians. The periodical "strikes" of the State Legislatures upon public-service corporations usually parade before the people as honest attempts to secure for them a larger return for the

privileges which they have granted. The effect upon the corporations is no less unfortunate. The directors—who regard themselves as trustees for the stockholders—feel themselves under obligations to parry the attack by every possible means. As bribery is the surest and quickest plan, it is resorted to and subsequently justified with the argument that the fault lies with the people in electing a corrupt Legislature. However we may condemn this view, it represents the attitude of a very large and influential section of our population, and must be reckoned with in any attempt to meet the evil.

Experience—ofttimes of a rather bitter sort—has repeatedly demonstrated the futility of legislation designed to oppose the combination and consolidation of public-service corporations. Statute law cannot overcome the inevitable tendencies of economic growth. While it is evident to every observer that the permanent interests of the public are endangered by this feeling of antagonism between the corporations and the people, it is equally clear that some form of public control is absolutely necessary to safeguard such interests.

The first, and certainly the most important step, toward acquiring such control is to compel the public-service corporations to furnish complete data concerning the investment, capital, and operating accounts. Absence of trustworthy information on these points makes the determination of franchise values mere guesswork. The corporation, rather than the public, profits by the resulting uncertainty. Furthermore, the requirement that corporate accounts be kept in accordance with standards prescribed by the public authority, combined with the publicity of such accounts, will effectually check over-capitalization, which is a constant menace to the public at large as well as a ready means of avoiding pay-

ments for franchise privileges. In a great number of cases—of which the street railway system of Philadelphia furnishes a conspicuous instance—the reservation by the city of the right of ultimate purchase of the plant has proved worthless, owing to the absence of information as to construction and equipment.

Another advantage of no mean importance accruing from the publicity of accounts is the possibility thus offered of preventing the expenditure of large sums for corrupt political purposes. It is one of the most important means of taking the corporations out of politics.

With full and complete information concerning franchises in the hands of the public authority it will be possible to adjust the relations of the municipality to the public-service corporations on a definite and permanent basis. In the long run both the corporations and the public will profit by the change. The greater security to vested rights which must result will tend to offset the increased obligations resulting from a more accurate valuation of franchises. When these companies once clearly understand that they cannot avoid contractual obligations by any of the well-known methods of financial juggling, we shall be well on the way toward such an adjustment of relations as will safeguard both the interests of the public and those of the stockholders. There will no longer be any excuse for the periodical " strikes " which now disgrace our legislative halls, nor will there be any inducement for the public-service corporations to indulge in the questionable financial operations which have aroused so much criticism and opposition.

APPENDIX.

OUTLINE FOR SUMMARIZED STATEMENT OF RECEIPTS AND EXPENDITURES.

Ordinary Receipts

I. *Taxation.*

a. General Property Taxes.
1. Real Property Taxes.
2. Personal Property Taxes

b. Poll Taxes.

c. Licenses.
1. Liquor licenses.
2. Other licenses, including mercantile, peddlers', and hawkers' licenses. Not to include street railway licenses, which are to be placed under the separate heading of franchises.

d. Franchise and Franchise Taxes.
Include under this head all payments for franchise privileges by gas, water, electric light, telephone, street railway, or other companies enjoying municipal franchises. Payments under general property taxes not to be included.

e. Fees.
1. Legal and judicial fees, including fees for recording deeds and registering wills.
2. Other fees, such as vault permits, sidewalk permits, etc.

f. Special Assessments.
1. Opening streets.
2. Paving streets.
3. Sidewalks.
4. Sewers.
5. Miscellaneous assessments.

II. *Public Safety.**

a. Police.
b. Fire Department.
c. Fire and Police Telegraph.
d. Jails, Prisons, and Reformatories.
e. Health Department.
f. Food inspection.
g. Building inspection.
h. Regulating dangerous pursuits.

* The income from local courts has been included under "Fees."

i. Sanitary measures.
j. Public Pound.
k. Militia.
l. Miscellaneous.

III. *Public Charity.*†

a. Hospitals.
b. Insane asylums.
c. Homes.
d. Workhouses, almshouse.
e. Lodging houses.
f. Outdoor relief.
g. The unemployed.
h. Miscellaneous.

IV. *Public Convenience.*

a. Chief engineer.
b. Opening and grading streets. Abolishing grade crossings.
c. Street and sidewalk paving.
d. Street cleaning.
e. Street lighting.
f. Removal of garbage.
g. Bridges.
h. River and harbor improvements.
i. Sewers.
j. Parks and playgrounds.
k. Baths, laundries, and public comfort stations.
l. Ferries.

V. *Public Industries.*

a. Gas works.
b. Water works.
c. Electric light works.
d. Markets.
e. Docks and wharves.
f. Ferries.
g. Street railways.
h. Conduits.

VI. *Public Education and Allied Objects.*

a. Schools.
b. Free library.
c. Reading-rooms.
d. Celebrations.
e. Monuments.
f. Documents.

† Although very little income is usually derived from some of these sources they are inserted to harmonize with corresponding items under "Expenditure."

VII. *Public Trust Funds.*

Funds and foundations of which the city has the administration.

Extraordinary Income.

VIII. *Public Debt.*

(1) Funded debt.
(2) Floating debt.*

Expenditure.†

I. *General Government.*

a. Executive.

1. City Hall—General maintenance and repairs.
2. Mayor's Office.
3. Heads of Departments.
4. Special experts.

b. Legislative.

1. City Council.
2. City Clerk.

c. Legal.

1. Law Department (city courts not included).

d. Finance Departments.

1. Assessors.
2. Tax Collectors.
3. Treasurer.
4. Comptroller or Auditor.
5. Board of Estimate and Apportionment.
6. Board of Equalization.
7. Sinking Fund Commission.

e. Elections.

II. *Public Safety.*

a. Police.
b. Fire Department.
c. Fire and Police Telegraph.
d. Local Courts.
e. Jails, Prisons, and Reformatories.
f. Health Department.
g. Food inspection.

* Exclude from this mere book accounts, such as the income from revenue bonds issued in anticipation of taxes.

† Under each heading it will be desirable to classify as follows:

I. Current expenses and maintenance.
1. Salaries.
2. Supplies.
3. Other expenses.
II. Construction.
III. Extraordinary expenditures other than construction,

h. Building inspection.
i. Regulating dangerous pursuits.
j. Sanitary measures.
k. Public Pound.
l. Militia.
m. Miscellaneous.

III. *Public Charity.*

a. Hospitals.
b. Insane Asylums.
c. Homes.
d. Workhouses, Almshouses.
e. Lodging Houses.
f. Outdoor Relief.
g. Unemployed.
h. Miscellaneous.

IV. *Public Convenience.*

a. Chief Engineer. Office and service.
b. Opening and grading streets. Abolishing grade crossings.
c. Street and sidewalk paving.
d. Street cleaning.
e. Street lighting.
f. Removal of garbage.
g. Bridges.
h. River and harbor improvements.
i. Sewers.
j. Parks.
k. Baths, laundries, and public comfort stations.

V. *Public Industries.*

a. Gas works.
b. Water works.
c. Electric light works.
d. Markets.
e. Docks and wharves.
f. Ferries.
g. Street railways.
h. Conduits.

VI. *Public Education and Allied Objects.*

a. Schools.
b. Free library.
c. Reading-rooms.
d. Celebrations.
e. Monuments.
f. Documents.

VII. *Public Trust Funds.*

a. Funds and foundations of which the city has the administration.

VIII. *Public Indebtedness.*

a. Interest on funded and floating debt.

b. Liquidation of funded and floating debt* (including payments for this purpose from general treasury and sinking fund).

* Assets of sinking fund are to be treated as "cash," and will figure in the balance sheet.

SUMMARIZED STATEMENT OF RECEIPTS AND EXPENDITURES.

	RECEIPTS.		EXPENDITURES.	
	Ordinary.	Extraordinary.	Ordinary.	Extraordinary.
I. *General Government.*				
1. Executive				
2. Legislative				
3. Law Department				
4. Finance Departments				
5. Elections				
II. *Taxation.*				
Real Property Taxes				
Personal Property Taxes				
Poll Taxes				
Licenses				
Franchise and Franchise Taxes				
Fees				
Special Assessments				
III. *Public Safety.*				
Police				
Fire Department				
Fire and Police Telegraph				
Jails, Prisons, and Reformatories				
Health Department				
Food inspection				
Building inspection				
Regulating dangerous pursuits				
Sanitary measures				
Public Pound				
Militia				
Miscellaneous				
IV. *Public Charity.*				
Hospitals				
Insane Asylums				
Homes				

	RECEIPTS.		EXPENDITURES.	
	Ordinary.	Extraordinary.	Ordinary.	Extraordinary.
Workhouses				
Lodging Houses				
Outdoor Relief				
Unemployed				
Miscellaneous				
V. *Public Convenience.*				
Chief Engineer. Office and service				
Opening and grading streets				
Abolishing grade crossings				
Street and sidewalk paving				
Street cleaning				
Street lighting				
Removal of garbage				
Bridges				
River and harbor improvements				
Sewers				
Parks				
Baths, laundries, and public comfort stations				
VI. *Public Industries.*				
Gas works				
Water works				
Electric light works				
Markets				
Docks and wharves				
Ferries				
Street railways				
Conduits				
VII. *Public Education and Allied Objects.*				
Schools				
Free library				
Reading-rooms				
Celebrations				
Monuments				
Documents				
VIII. *Public Trust Funds.*				
Funds and foundations				

	RECEIPTS.		EXPENDITURES.	
	Ordinary.	Extraordinary.	Ordinary.	Extraordinary.
IX. *Public Indebtedness.*				
Interest				
Liquidation of loans (from sinking fund and general treasury)				
Totals				
RECEIPTS.				
Brought down				
Total receipts				
Cash in treasury at beginning of fiscal year				
Cash* in hands of Sinking Fund Commissioners at beginning of fiscal year..				
EXPENDITURES.				
Brought down				
Total expenditure				
Cash in treasury at end of fiscal year				
Cash* in hands of Sinking Fund Commissioners at end of fiscal year				

* To be interpreted as cash or such securities as have a ready cash value.

BOOK ACCOUNTS.

RECEIPTS.

I. Taxes collected for the State and to be turned over to the State treasury.
II. Receipts from Revenue Bonds in anticipation of current taxes.
III. Receipts of Sinking Fund.

EXPENDITURES.

I. Payment of taxes collected for the State.
II. Payments to Sinking Fund from general treasury.
III. Payment of Revenue Bonds from current taxation.

General Statement of Assets and Liabilities.

Assets.

1. Available.
   - Cash in treasury.
   - Salable lands and buildings.
   - Taxes, assessments, etc., in arrears.
   - Other debts due.
   - Other available assets (specify).
2. Not available.
   - Water works.
   - Gas works.
   - School houses.
   - Public buildings.
   - Parks.
   - Sinking fund.
   - Bad taxes, *i.* e., those in arrears for a period making future collection improbable.
   - Other assets not available (specify).

Liabilities.

- Debt.
  - *a.* Bonded.
  - *b.* Floating.
- Outstanding claims.
- Other liabilities (specify).

THE POWER TO INCUR INDEBTEDNESS UNDER THE PROPOSED MUNICIPAL PROGRAM

Hon. Bird S. Coler

The effect of constitutional limitations upon the debt-incurring capacity of cities has recently been a matter of extreme practical importance to the City of New York. None of the municipal corporations which were consolidated by the Greater New York Charter into the City of New York, as now constituted, had exceeded its constitutional limit of indebtedness at the time of consolidation. Nevertheless, the effect of consolidation was to create a new city, the indebtedness of which considerably exceeded the limitation in the Constitution of the State of New York, of ten per cent. of the value of its real estate as assessed for purposes of taxation. The reason for this was that the limitation in question applied *separately* to the indebtedness of the counties included within the territorial limits of Greater New York and to the municipal corporations included within it. For example, at the date of consolidation the City of Brooklyn had a debt practically equal to the maximum permitted by the Constitution, whereas the county of Kings, which was territorially identical, had also a debt of nearly $15,000,000. The Greater New York Charter made all indebtedness, including the county debts, a part of the common debt of the new city, so that the effect of the annexation of Kings County and the City of Brooklyn to the City of New York was to reduce the debt-incurring capacity of the new city by nearly $15,000,000. The same results were also obtained in a less degree from the annexation of the counties of Queens and Richmond.

I do not mean to dwell upon the debt-limit difficulties which beset the financial administration of the new City of New York during the first eighteen months of its existence. We were theoretically—though not, of course, practically—bankrupt. The city had exhausted its credit within the constitutional limitation, and could only continue in business on a system of cash payments. These difficulties have now been surmounted, first through a large increase in the assessed valuation of real estate, principally in the limits of the old City of New York; and, secondly, through the adoption at the recent election of a constitutional amendment eliminating the county indebtedness of the four counties of New York, Kings, Queens, and Richmond, from computation in ascertaining the debt limit of the city.

One effect of these difficulties has been to make the general public quite familiar with this constitutional provision, and to excite an amount of public discussion in regard to its merits and demerits which would not otherwise have been possible. Advocates of consolidation had written many eloquent articles describing the great possibilities for modernizing and improving the City of New York, so that it might become foremost among the imperial cities of the world. It was found, however, that consolidation, with its enormously increased public duties and responsibilities, instead of carrying with it an increase in the power to issue bonds to meet these responsibilities, actually brought about a diminution of that power.

I hope that this reference to the increased public duties and responsibilities resulting from consolidation will not be regarded as mere phrase-making. This change in conditions is a real one and vital, as a single illustration will show.

Prior to consolidation the building of a sufficient number of bridges across the East River was regarded as a pleasant dream, be-

longing, as a great English novelist has said, "to the avenue of wishes leading to the golden mists beyond imagination." To-day how different are the conditions! If Greater New York is to be one city in fact, as well as in name, intercommunication between its several boroughs must be made as easy as physical conditions will permit, almost regardless of cost. If consolidation had really any sensible meaning or purpose, that purpose was the upbuilding of a city of homes at more equal distances than at present from the center of commercial activity. Prior to consolidation these bridges were but dreams, because the taxpayers of Manhattan Island would not build them, and the communities on the other side of the East River could not. To refuse to build them now would be to declare that consolidation has failed of its primary and most important practical object. Yet the cost of these bridges is enormous. Including the land necessary for approaches, twelve millions of dollars each is a moderate estimate of the average cost.

The demands made to-day upon the public purse for public improvements in the great modern cities of the world would astound the publicists of past generations. The ever-increasing cost and complexity of urban life is nowhere better exemplified than in the demand for increased assumption of public utilities by government. A city that does not respond to this demand is provincial, is not a metropolis. Paris has been regarded as the typical modern city. It certainly was the first to make widely extended use of its credit for public improvements. And this fact has, by most observers, been cited with approval and as a cause of its greatness. How does the bonded debt of the City of Paris compare with that of New York? The present net funded debt of the City of New York is $253,000,000; the bonded debt of Paris is, in round figures, two billions of francs, or, say, $400,000,000. Yet New York to-day is

incomparably the richer city, and better able to sustain the larger debt.

In the argument I am about to make for a more liberal policy affecting a city's power to issue bonds, I wish to state clearly my appreciation of, and adherence to, the wisdom of constitutional restrictions on the indebtedness of cities. These restrictions are to be found in the constitutions of nearly all our States, and have been upheld both in letter and in spirit by the decisions of our courts. They have undoubtedly served to prevent the financial ruin of many small cities, which in the hands of unscrupulous political adventurers would otherwise have undergone the same disastrous experiences as befell the City of Elizabeth in days gone by. Yet this constitutional limitation has itself its limitations. It should not be made a fetish to be worshiped blindly at the expense of really necessary progress.

In the competition which exists to-day between nations and cities, as well as between individuals, to stand still means to retrograde, and if it should happen that a choice must be made between stopping the modernization of New York and amending the Constitution I am in favor of the latter course, provided no real danger to the city's credit and solvency be thereby threatened.

I believe the clause in the Constitution limiting municipal indebtedness—wholly admirable at the time it was written—is not altogether adapted to modern requirements, in that it does not discriminate sufficiently between two classes of city debts of a wholly different character.

A city issues bonds only for permanent improvements, the benefits of which inure to posterity. But there are two classes of these improvements, easily distinguishable from one another, and between which a sharp distinction should be drawn.

In one of these classes are improvements which, while adding to

the attractiveness, beauty, and healthfulness of a city, to its economical administration, or to the better conduct of its governmental functions, bring in no direct financial returns. This is by far the more numerous class, and embraces such usual works as the erection of public buildings, including schools, the acquisition of parks, and the repaving of streets. No matter how great the material benefits may be that are derived from such improvements the expense incurred is unquestionably a financial burden upon the taxpayers. In regard to such expenditures there can be no doubt as to the wisdom of establishing an arbitrary constitutional limit, since otherwise the burdens that might be thrown upon succeeding generations by excessive issues of bonds would become intolerable.

There is another class of improvements, however, far less common, which either result in casting no burdens whatever upon the taxpayers or else bring in an actual profit to the municipality. In such cases it may be permissible to ask wherein there lies any rational excuse for limiting the governmental activities of a city by constitutional restrictions. A dim recognition of this truth seems already to have found expression in the Constitution of New York, which partially excepts from the operation of the debt limitation bonds issued to provide for the supply of water, and requires only that a special sinking fund be established for their ultimate redemption. Why this exception? Because pure water is a prime necessity for the health of a community? Scarcely, for there are many other public necessities paid for by the issue of bonds which are hardly less imperatively needed by the people, and as to such the Constitution is silent. The reason must be found in the fact that for the past century, by a universal custom which has the force of unquestioned law, it has been the practice of cities owning waterworks to charge consumers for the water supplied, and that the

rentals received from the operation of this natural monopoly have almost invariably shown a profit over the expense of maintenance and operation. In other words, bonds issued to provide for the supply of water are not a real burden upon the taxpayers, since the water rents received pay the interest on these bonds, amortize the principle, and still yield a profit to the city.

If, as I believe, this principle is absolutely sound, there is no reason why, in these days of highly developed municipal functions, its application should be limited to the matter of water supply, simply because generations ago that constituted the only form of municipal ownership known to our forefathers. I will try not to wander too far into the seductive field of municipal ownership; but there are two illustrations of the principle I have just alluded to which, in the City of New York, are practical questions of the day. I refer to the construction of the Rapid Transit Railroad and the proper development of our dock system.

As is well known, the proposed contract for the construction of the Rapid Transit road provides for its completion by the contracting company for a specified sum to be named in the bid. This sum is to be paid by the city to the contractor in installments, as the work progresses. The same contracting company is bound by the terms of the contract and is under heavy bonds to operate the road for a term of fifty years, paying to the city as rental the annual interest on the bonds issued by the city to pay for the road, and one per cent. additional for the purpose of establishing a sinking fund for the liquidation of the bonds at the expiration of the lease. Thereafter the road becomes the unincumbered property of the city.

A more advantageous contract can scarcely be imagined. Here is a case where the bonds issued by the city are in no real, practical sense a debt at all. There is absolutely no burden thrown upon the

taxpayers; on the contrary, the city will ultimately acquire without cost an asset of inestimable value. Why should the Constitution hinder the city from entering into enterprises of this character?

The question of the development of our dock system is, in the opinion of many, even more important than the construction of the Rapid Transit Railroad. No one who is impartial and has really studied the matter can seriously deny that the municipalization of the New York City docks, tardily and insufficiently as it has been carried on, has been advantageous to the city. No city in the world is circumstanced similarly to New York in respect to its water front privileges. But the acquisition of dock property by the city has proceeded at a snail's pace. In the fierce commercial competition which exists to-day between the great ports on the Atlantic coast of this country New York has been badly handicapped by lack of wharfage room and transportation facilities incidental thereto. So grave has the situation become that a State Commission has been created to examine into the causes of and remedies for the decline in the commerce of this port. A danger of this kind defies exaggeration. All else we might lose, but the loss of our commercial primacy spells disaster. If this threatened disaster is to be averted, the acquisition, improvement, and control of dock property by the city should be made a matter of public agitation, and entered into at once in a vigorous, comprehensive manner. Excellent plans have been devised for improving the water front of the city, for constructing docks equal to those of Liverpool, and for providing proper means for transportation and transshipment along the lines of the city's marginal streets. But, thus far, the cost has proved prohibitive. Prohibitive, however, only for one reason—the obstruction of the Constitution. If it can be shown—and it can be—that the money expended for these dock improvements would not prove a

real debt, burdensome to the taxpayer, but rather an advance or loan make *by* the city, and certain to be repaid, principal and interest, within the lifetime of this generation, with an enormous profit besides, who would be such a slave to conservatism as to dispute the wisdom of amending the Constitution so as to make this great improvement possible?

Our people do not properly realize the profits which the city derives from its docks. The bonds issued by the city in recent years to pay for the acquisition and improvement of dock property have borne an average interest charge of about 3¼ per cent. per annum. Up to 1895 the Dock Department had spent the sum of $6,508,291.50 in acquiring and improving private property, from which the annual rentals received amounted to $462,226.54, or 7 1-10 per cent. per annum on the total outlay. This would represent a profit over the interest charge on such bonds of more than a quarter of a million dollars per annum, or sufficient to redeem the principal of the bonds in less than twenty years, notwithstanding the fact that the outlay referred to includes the large expense of widening and paving West Street.

Since 1895 the Dock Department has conducted important condemnation proceedings in the vicinity of Bank and Bethune streets on the North River to provide piers of extraordinary length for the use of the large transatlantic steamship line. Owing to the peculiar topography and development of this locality, the cost of these proceedings was greater than any heretofore attempted, or likely to be undertaken in the future.

The blocks of ground condemned were covered by large factories with extensive fixtures and machinery, which had to be paid for by the city, and then torn down and removed. Afterward the ground upon which these buildings stood had to be dredged out to a suf-

ficient depth for the slips, which was a heavy expense not ordinarily incurred. This was followed by the construction of a masonry bulkhead wall and the erection of piers. The total outlay connected with this improvement was $7,536,841.60, upon which the annual interest charge is $244,947.35. The rentals received amount to $370,206.52, which shows an annual profit of $125,259.17.

Ordinarily the city does not have to acquire the upland property abutting on the water front, so that this improvement makes the least favorable financial showing for the Dock Department that could be exhibited. Nevertheless, the annual profit is sufficient to redeem the bonds issued in thirty-five years, at the end of which time the city will be probably $10,000,000 richer by the operation.

To adhere slavishly to the fetish of a constitutional provision in the light of such a showing as this is to shut the door of fate in the face of our city's future. If New York City is to occupy the position of commercial supremacy to which its past history and its natural advantages entitle it, we must reason about these matters like intelligent adults, and not like children still enmeshed in the prejudices of early teaching.

Our constitutions should be amended so as to except from the limitation on the indebtedness of cities bonds issued to provide for improvements—which, while governmental in their character are, nevertheless, essentially business enterprises—and from the operation of which profits can be derived sufficient to provide a speedy amortization of the indebtedness temporarily incurred.

MUNICIPAL FRANCHISES

CHARLES RICHARDSON

It is only during the last few years that any considerable portion of the residents of American cities have begun to realize the immense value and importance of their local franchises.

Long before the attention of the people was called to the subject shrewd financiers, professional politicians, and party bosses had foreseen the harvests of wealth and political power to be reaped by those who could control the giving of municipal franchises. The financiers saw vast returns for small outlays, and unlimited opportunities for stock watering, stock gambling, and the manipulation of market prices. The professional politicians saw how they could control their workers and henchmen by obtaining for them special privileges, patronage, or profitable employment from companies depending on municipal favor. The party bosses reckoned upon lavish contributions from the treasuries of such companies, and the political support of the thousands who would own or deal in their stocks and securities.

The process of capturing franchises from the agents of the people has progressed so rapidly that in some cities there seems to be but little left for the public to control. In many places the local government is so bound and helpless, and so entirely dominated by the public service corporations which it has created and nourished, that many of the voters now regard it as powerless to promote their interests and unworthy of their respect or support. The lack of wisdom and foresight which has been shown

by most of our cities in connection with their franchises may be fairly likened to that of a tribe of Indians selling for a few beads the lands which would have yielded them an ample and permanent support.

It is not necessary to enlarge here upon the immense present and prospective value of municipal franchises or the enormous profits which they have already been made to yield. The facts are familiar or accessible to all, and may be assumed for the purposes of this paper.

The properties and services which are the subjects of such franchises differ widely in character and consequence. Some, like a general water supply, are practically indispensable and monopolistic in their nature, while others, such as a turnpike road, may be merely desirable and subject to much competition.

The principles which should guide us in dealing with such a great variety of assets and duties may be applicable to all, but the importance of applying them will vary in proportion to the importance of the property to be managed or the duty to be performed. An error in regard to the water supply may be disastrous to the health, business, and growth of a great city, but a mistake in relation to a turnpike road may be of small consequence.

The methods which have been most advocated for the management of municipal properties and services may be classified under two heads, viz.:

Those which are equivalent to a lease for a period of years, and

Those which involve the direct control and operation by the local government.

The principal arguments in favor of the lease system may be stated briefly as follows:

First—That it is the quickest and easiest method for a city to obtain large sums of money or large annual revenues without borrowing, and that the success of this method will be in proportion to the length of the periods for which the franchises are granted.

Second—That with city management there is sure to be a great deal of fraud and corruption in the procurement of labor and materials.

Third—That municipal officials and legislators are so generally ignorant, negligent, or corrupt that they are incapable of conducting the public business with intelligence, efficiency, and economy.

Fourth—That by carefully drawn leases and agreements the city's interests can be fully protected and its revenue assured and increased.

Fifth—That under our form of government the requirements of party politics and the frequent changing of public employees make it impossible for the people to secure as good service at as reasonable rates as a private corporation.

Sixth—That under municipal operation the employees and patronage will be used for political, partisan, or factional purposes, to such an extent that the spoils system will be greatly strengthened, and it will become much more difficult for the people to overthrow a political machine.

The advocates of municipal ownership and operation reply to these arguments:

First—That even if we should ignore the influence of a full treasury in encouraging folly and extravagance, it would still be true that neither the raising of money nor obtaining an income can justify a city in depriving its citizens and their posterity of the

control of matters essential for their own service and protection, or in selling important privileges for much less than they are worth, or in granting them to persons whose private interests will thus be made adverse to those of the public.

Second—That as such arrangements are practically certain to be unfair to the city, the evils which they will inflict upon the people will be much greater if the grants are made for long periods than if they are limited to short terms.

Third—That in aggregate amounts and in multiplicity and variety of direct and indirect methods the bribery and corruption chargeable to corporations seeking and enjoying municipal franchises are undoubtedly far in excess of the totals of similar evils from all other sources combined, and that the way to abolish bribery is to abolish the corporations which do the bribing, by adopting the policy of municipal operation in every conceivable case.

Fourth—That if the city's representatives are unfit to conduct a business from year to year, it would be the height of folly to intrust them with the vastly more difficult and responsible task of selecting and installing a management which could not be changed for a long period of years.

Fifth—That in making a lease for fifty years the bribes are much larger, and the necessity for expert knowledge, shrewdness, sagacity, foresight, and honesty is much greater, so that the damage resulting from the lack of suitable qualifications in the city's representatives is likely to be very much more than fifty times what it may be under a management that is limited to a single year and can then be changed by the voters if it is unsatisfactory.

Sixth—That under existing conditions the chances of any city obtaining a fifty years' or other long term agreement which will

be entirely fair and desirable for the people, or of securing what might be even more difficult, a full and satisfactory enforcement of such an agreement if one could be made, seem to be too slight for serious consideration.

Seventh—That even if it was practicable to secure such an agreement and its continuous enforcement, its effect upon the character of the local government must necessarily be exceedingly injurious. A bad servant who can be dismissed is much better than a master from whom it is impossible to escape. Republican institutions are based upon the principle that the people should have the power to change their rulers without resorting to assassination or revolution, and a long lease of an important municipal service is simply the substitution of a limited monarchy for a popular government, so far as it relates to that particular function.

Eighth—That as the character of every republican government must depend in the last analysis upon the active interest of the voters, it is obvious that every lease or agreement which ties the hands of a local government and lessens its ability to serve and protect the voters must tend to diminish their interest in supporting or improving it. While it is not possible to strip a city government so entirely of power as to make it incapable of attracting the efforts or serving the purposes of bad men, it is possible to render it so powerless to accomplish good or restrain evil that the average citizen can no longer be induced to take an active interest in it.

There is much force in the argument that so long as each voter can directly affect the character and conduct of his local government, his interest in it will be in proportion to the number, importance, and directness of the different ways in which that

government serves and affects him. So far as he may come to regard it as his business agent he will want to guard and improve it. So far as it becomes the servile instrument of private corporations in which he has no voice or share, he will cease to respect or care for it. If we are anxious for the citizens to elect officials who will purify their local government and place its employees upon the permanent non-partisan basis of the merit system, it seems reasonable to urge that we should advocate measures which will rather increase than curtail the functions of that government as the only form of organization which can represent all the owners of public property, and in which every voter can feel that he is an active member, entitled to a voice in the management and a share in the profits and benefits.

And it should be remembered that a large majority of the voters have no private property directly subject to assessment, and are therefore much more likely to take an interest in the management of their public property and public services than they are in any questions of municipal income or rates of taxation. If we want the people to develop higher civic ideals we must enlarge the scope and importance of their city government. If we want them to appreciate the advantages of intelligence and fidelity in their public servants, we must give those servants such duties and responsibilities that incompetence and dishonesty can neither be concealed nor endured.

It may be said further that the indifference of the voters which is so generally complained of is only one of many evils which are natural results of transferring useful functions from public officials to private corporations. On the other hand a positive antagonism to reform measures is created in the minds of those who become directly or indirectly interested in the financial suc-

cess of companies obtaining municipal franchises. The community becomes divided against itself. The interests of a large and very influential class are opposed to those of their fellow-citizens, the newspapers take the side of their wealthy patrons and advertisers, and the advocates of honest government are exposed to a social, political, and business ostracism which greatly increases their difficulties.

Careful students of the subject are convinced that it is in the agents and lobbyists of franchise-holding and franchise-seeking companies that the professional politicians find their principal allies and sources of supply. In the absence of such corporations they could have no means which would be so effective for the creation and organization of anti-public interests, and for enabling their political machines to control the nomination, election, and subsequent conduct of public officials and members of local legislative bodies and courts of justice.

The committee on Municipal Program is unanimous in the opinion that the city should be free to choose for itself between the policy of leasing its franchises or of retaining and operating them for its own benefit in any given case, and should be clothed with ample power for acquiring and managing public properties.

The committee regards the possession of this power as essential to protect the interests of the city, and as supplying an added motive for the watchful and intelligent participation of the people in the affairs of their local government.

The committee is also convinced that it has been demonstrated by abundant experience that in the interest of the public, when a city grants a franchise to a private corporation, association, or individual:

The term of such grant should be limited to a definite period, not exceeding twenty-one years;

In addition to any other form of compensation the grantee should pay the city a percentage of the gross receipts from the exercise of the franchise;

At the end of the period the plant of the grantee should become the property of the city if the latter should so desire, either without further compensation than the original grant, or, if additional compensation be paid, it should not in any way include or be based upon any valuation of or allowance for the franchise itself, which at the termination of the grant should *ipso facto* revert to the public;

Every grant of a franchise should contain ample provisions, enforceable by forfeiture of the grant, or otherwise, to secure efficient public service at reasonable rates;

Every grantee should be obliged to render to the city complete accounts of its financial condition, including its receipts from all sources and its expenditures for all purposes, such accounts to be public records;

The books and accounts of the grantee should be at all reasonable times open to the examination of the city's fiscal officer or his representatives.

The tendency of successful companies to try to conceal or disguise the extent of their profits makes it necessary for the agents of the city to have very full powers of investigation.

The question whether it should be the policy of a city to try to obtain the largest pecuniary returns in relief of taxation, or to provide for the lowest practicable charges for the services to be rendered to the citizens is a difficult one. But that each

city should have the power to decide this question in its own way, in the light of its own need and experience, is clear.

However they may differ among themselves in other respects, neither the advocates nor the opponents of municipal ownership and operation can deny the strong probability of great public advantage in enforced publicity of accounts of the grantees of franchises from the city; and that it is obvious that with the rapid growth of our cities and the consequent changes in the conditions which make and unmake the values of such franchises both to grantees and to the city a sound public policy would seem to forbid the tying of the hands of the next generation by the bargains of this generation. Nor can those who believe in clothing a city with the requisite power to live its own life and to work out the solution of its local problems in the light of its own needs and its own experience consistently oppose granting to a city authority to decide for itself whether it will undertake to supply on its own account those public services which are the usual subjects of the grants of franchises to private corporations.

POLITICAL PARTIES AND CITY GOVERNMENT UNDER THE PROPOSED MUNICIPAL PROGRAM

FRANK J. GOODNOW

For many years the conviction has been growing in strength among those interested in improving the conditions of American cities, that an important, if not the chief, cause of the evils which admittedly exist in our municipal life is the fact that municipal questions have not been clearly enough distinguished from general political questions; that municipal interests have been sacrificed to the exigencies of national and State politics.

When the National Municipal League was formed, those responsible for its formation were so thoroughly convinced that this was the case, that the separation of municipal from national and State politics was made one of the most important planks of the platform on which the League was placed. In many cities in the country political campaigns have been fought out on this issue.

The questions naturally present themselves: Why is it that a principle so reasonable as that of the separation of municipal and national politics has not received universal recognition? Why is it that national and State political parties busy themselves with municipal politics? and, What must be done in any municipal reform to be undertaken which will bring it about that municipal questions may be determined on their own merits?

The answer to the question why this principle has not received universal recognition can be made only after an understanding has

been reached as to the reasons why the political parties interest themselves in municipal politics. These are two in number. They are, first, the natural and legitimate desire of political parties to further the objects for which they have been established. They are, secondly, their desire—just as natural, but not so legitimate—to make use of the city to strengthen their own organization and maintain themselves in power.

Why, now, does the national and State party under our present conditions desire to control the city, in order to further the objects for which the party is formed? Because under our system of government the city is a most important agent of the State government. Officers elected directly or indirectly by the people of the city are discharging functions which are of vital interest to the State or nation. Thus the matter of education, which is often regarded as within the scope of local government is a matter in which the State as a whole has a most vital interest. In a country where universal manhood suffrage is the rule the people of the State as a whole are vitally interested in having the youth of every community within its limits receive an education which will fit them for the intelligent exercise of their right to vote.

Again, the people of the State as a whole have a vital interest in the preservation of the peace and the maintenance of good sanitary conditions in every community within the State. Both disorder and disease are contagious, and their existence in one community of the State is a menace to the welfare of the people of the State as a whole.

But while the people of the State as a whole are thus interested most vitally in much that is commonly regarded as a function of municipal government, it does not by any means follow that their interest is not subserved by permitting these matters to be man-

aged by the city governments. For while the people of the State as a whole are interested in having the children of every community well educated and the peace and health of every community maintained, at the same time every such community has, as a rule, an even greater interest in securing these results than the people of the State. It is the children of the local community not making provision for a good educational system who primarily suffer. It is the people of the local community not preserving the peace and not maintaining good sanitary conditions who are most exposed to the dangers arising from disorder and disease.

The appeal to local self-interest which is the psychological principle at the basis of the local self-government system, generally awakens sufficient response to justify the existence of such a system. At the same time, the interest which the people of the State have in the proper performance by the local communities of duties affecting the people of the State, always exists and does not permit them to look with unconcern upon the failure of local communities to perform their duties, whether such failure arises from indifference and lack of intelligence or from positive unwillingness.

The city is, then, in numerous instances an agent of the State government, and as such is through its officers discharging functions which interest vitally the people of the State. The State is, therefore, justified in exercising a control over the city, in order to protect its own interests, so long as it permits the city to act as its agent. If this control is an effective one, *i. e.*, if the system of government is such that State officers really control municipal action, the State political party may, through its control of the State government, which it is formed to carry on, exercise all the influence which it deems necessary should be exercised over

the discharge of functions of government intrusted to the city, but interesting the State as a whole. Until the State control, however, is an effective one, the political party will inevitably enter into municipal politics.

The greater the powers of local self-government possessed by cities the greater will be the desire of the political parties to interfere with their government. Let me make this clearer by an example. Suppose that a moral question, such as total abstinence, has become a question of politics. We have a prohibition party formed which carries the State and puts a law on the statute book prohibiting the sale of liquor. So long as our principles of local self-government obtain, the enforcement of that law is very largely in the uncontrolled discretion of city officers. Now, the political party organized for the purpose of prohibiting the sale of liquor would be recreant to its principles if it did not strive to obtain control of the city government, in order that it might insist upon the enforcement of the law which it had put on the statute book.

So far, then, as the city is acting as the uncontrolled agent of the State, to that extent is the political party interested, and properly interested, in the operations of city government. So far as matters interesting the State as a whole are taken from out of the jurisdiction of cities, or are subjected to an effective State control, so far will the temptation of the political parties to interfere with municipal government be diminished.

In the second place, the political party desires to interfere with city government for reasons differing widely in character from those already referred to. The work of the political party under our system of government by checks and balances and of elective officers is enormous. Elections for either national, State, or local officers coming every year, it is necessary for the success of the

party that it be permanently organized, always ready to do battle for the principles it represents.

Now, one of the most evident facts of history is that all permanent organizations finally get to be ends in themselves, instead of remaining a means to an end. Political parties are no exception to this rule. The maintenance in its integrity and power of the political party organization becomes an end in itself, in the accomplishment of which the ends for which the party was formed may be lost sight of.

Even if this is not the case, the maintenance in its integrity and power of the political party organization is regarded as so necessary for the accomplishment of the ends for which it was formed that all means at hand must be made use of. What means more adaptable and useful than city governments, with their large patronage, their fat contracts, and their great police powers, the exercise of which is necessitated by great aggregations of people? What task more easy than to persuade people, who are citizens of the State and nation, as well as of the city, and whose conception of the possibilities of city life is not a broad one, that city interests, parochial interests, as they are sometimes called, must give way to the more striking, if not more important, interests of the State and nation? Such, then, are briefly the reasons why under our system of government, State and national political parties desire to busy themselves with municipal politics.

Our system of government, however, not only makes it thus inevitable that political parties shall desire to enter into municipal politics; it also affords ample opportunities for the parties to realize their desires, and indeed tempts them to act illegitimately in their interference with municipal matters.

It has already been pointed out that in our system of govern-

ment the localities, and particularly the cities, act as agents of the State, discharging functions which interest the State as a whole. The only State control over the discharge by the localities of these functions, whose development was originally permitted by this system was exercised by the Legislature. The absence of large powers of direction and control in the higher administrative officers of the State government made it necessary for the Legislature to descend into great details in fixing the authority of subordinate authorities and officers.

The city as a subordinate State authority has been treated as any other State authority, and has not been recognized as possessing any powers not granted by the State Legislature, while the powers actually granted by that body have usually been enumerated in great detail. Changes in these powers made necessary by changes in municipal development have been made by the Legislature, and generally by special acts.

Now the Legislature is and is properly the most thoroughly political body in the government. It is the body which must ultimately make the legal determination of the policy of the State. It must be controlled by the political party in a majority in the State. It is therefore the very worst body in the government to exercise the necessary control over cities, if it is desired that city government shall be conducted free from the influences of State politics.

For a number of years the people of the United States have been becoming convinced that the exercise of this legislative control was accompanied by great evils, and have therefore been endeavoring to limit the powers of control over cities possessed by the Legislature. As a general thing the plan adopted has been to

forbid in the constitution the Legislature to pass special acts relative to city affairs.

It can not be said, however, that such a method has been sufficiently effective to accomplish the purpose for which it was adopted. It is, of course, true, that in some States the constitutional prohibition of special legislation has done some good, but generally it has not emancipated the cities from the control of the Legislature, while in some States, owing to the interpretation given by the courts to the words "special act," the failure of the constitutional prohibition of special legislation to cities has been egregious. The State of Ohio has the unenviable reputation of standing at the head in this respect.

The cause of the failure of the constitutional prohibition of special legislation is not, however, far to seek. It is to be found in the fact that it has not been accompanied by any change in the method of granting powers to cities. Ohio again may be used to point a moral. Its general municipal corporations act of 1852 descended into the greatest details as to the powers of the cities to be organized under it. An act which was general only in that it nominally affected all cities could not actually have any very general application. It was soon amended by scores of acts purporting to affect only certain classes of cities, but actually affecting only one city. These acts, although they did not mention by name the city intended to be affected, described it with a minuteness, it has been said, which would have identified a fugitive from justice. The experience of Illinois furnishes a most useful illustration by way of contrast. In 1870 its State constitution forbade special legislation with regard to cities; and in 1872 when it adopted a General Municipal Corporations Act, it departed from the method of detailed enumeration of powers, granting comparatively large

powers to its municipalities. What has been the result? Special legislation relative to cities in Illinois, while not absolutely a thing of the past, has been reduced to a minimum.

The prohibition of special legislation regarding cities has not, however, been the only method adopted within recent years by the people of the United States to lessen the control of the Legislature over cities. Soon after the passage of the Illinois Municipal Corporations Act, the citizens of St. Louis, believing that prohibition of special legislation had been unsuccessful and also believing that their city was being continually interfered with by the State Legislature, obtained from the Constitutional Convention, which met in 1875, the right, subject to the constitution and general laws, to draw up their own charter. This privilege was also conferred upon the other larger cities of the State. The courts have been called upon to interpret the meaning of this privilege, and, it may be said in a general way, have decided that it constituted the cities, which it affected, into little independent republics, so far as the things were concerned in which the State as a whole was not interested. Thus, it has been held that a provision of a city charter, adopted by the people of the city, relative to parks could not be in any way amended by the Legislature. On the other hand, the Legislature has, even since the adoption of the constitutional amendment, the right to regulate such matters as the police and education. The plan adopted by Missouri has been adopted also in California, Washington, and Minnesota. Such, then, are the conditions in which have developed both the doctrine and the practice that the national and State parties shall control municipal politics.

What now are the remedies whose application to these conditions will justify the reasonable man in believing that these condi-

tions will be improved, and what in particular has been done in the proposed municipal program toward applying the proper remedies?

If what has been said is true, it is to be expected that the natural and legitimate desire of the political parties to interfere with municipal politics will be diminished either by diminishing the sphere of State agency accorded to cities or by subjecting their actions in that sphere to an effective State control. It is questionable, however, if in the present state of American public opinion it would be wise to suggest a large diminution of the sphere of State agency. It is also questionable whether regardless of public opinion such a change would be wise. As has been pointed out, local management of matters affecting the locality, even if they do at the same time affect the State as a whole, is probably more liable to lead to successful management than is State management. But it is perfectly possible, while maintaining such local management, to provide for a central State control effective enough to permit the State government to see to it that local standards are abreast of State standards. If this is done the legitimate desire of State political parties to interest themselves in municipal politics will be largely diminished.

Let me make myself plain by some concrete examples. If, while the city is permitted to retain the management of the police who have charge of the enforcement of a prohibition law, some State administrative authority is given disciplinary powers over the city police, the temptation of a prohibition party to interfere with the city government would be diminished. Again, if while the city is left in control of the schools, the city school board is subjected to the control of a State superintendent of common schools the political party which is interested in some educa-

tional reform may see to it that such reform is inaugurated by getting control of the State superintendent without attempting to control the local school authority.

Much has been accomplished in the past twenty-five years in the United States toward the establishment of these central State administrative authorities, and much good has resulted as a study of their history and development will show. All interested in the improvement of schools, charities, and prisons will testify that the establishment of State Boards of Education and Superintendents of Schools, and State Boards of Charities and Prisons has done much to take the schools, charitable institutions, and prisons out of politics.

The establishment and development of this central administrative control, however, is a matter which affects more than city government. It involves a change in our general scheme of State government. The Constitutional Amendments and Municipal Corporations Act in the proposed Municipal Program have not therefore gone very far in this direction. They merely make provision (Constitutional Amendments, Art. Third, 4; Municipal Corporations Act, Art. II., 15, 17) for the establishment of a central administrative control over city accounts and for the subjection of cities in their discharge of functions interesting the State as a whole to the control of such State administrative authorities as may now be or may hereafter be established by general law applicable to all the cities of the State. In this way it is believed the legitimate desire of political parties to control city politics will be diminished.

What now can be done to prevent political parties from making corrupt use of municipal patronage and powers to make contracts with the end of strengthening their own organization? The an-

swer must be as before. Both the temptation and the opportunity must be diminished. The temptation can be diminished by reducing the amount of patronage in the discretionary disposal of appointing officers; by introducing order, regularity, and publicity in municipal accounting and by subjecting the bestowal of municipal franchises to limitations which will both tend to prevent their corrupt grant and will insure the city a fair return for the benefits conferred.

In order then to reduce the temptation to the corrupt use of patronage the Constitutional Amendments and Act provide (Constitutional Amendment, Article Third, 6; Municipal Corporations Act, Art. IV) for most detailed civil service regulations, which it is believed make it impossible, so far as legal provision can make anything impossible, for appointments in the subordinate service of the city to be made for political reasons. In providing such detailed regulations departure has been made from the general principle which an examination will show pervades the draft, viz., that the cities were to be left with great discretion. The departure from this general principle was believed in this case to be necessary, because of the desire to render it as difficult as possible for the political party to exploit the city and because of the belief that an efficient civil service could be obtained only in this way, and that an efficient civil service was a necessary prerequisite to good city government.

The further endeavor to reduce the temptations to make use of the city patronage in the interest of political parties has been made in the draft (Const. Amend., Art. Third, 6; Mun. Corps. Act IV, 16) by providing that no officer in the subordinate administrative service of the city shall have a fixed term, and that no city officer shall be removed except for reasons to be re-

duced to writing and made a matter of record, at the request of the officer removed.

It is believed that one of the greatest temptations to make improper use of municipal patronage is to be found in the fact that most municipal officers at the present time in this country have terms which expire at a stated time. The question of a new appointment will thus of necessity frequently come up for consideration, and pressure is inevitably brought to bear upon the appointing officer to induce him to appoint some one who has worked for the party.

It has been felt that the provision that there should be no fixed term made it necessary to concede the mayor a disciplinary power of removal unhampered by any limitation except the one just mentioned, and it is believed that these two provisions will, as a more enlightened public opinion develops, do much toward diminishing the temptations of political parties to exploit city government in their own interests.

The draft has attempted further to reduce the temptations to an improper use by political parties of their powers, by providing (Const. Amend., Art. Third, 4; Mun. Corps. Act, Art. II, 15) for a uniform system of municipal accounting under State supervision; and (Const. Amend., Art. Third, 1; Mun. Corps., Art. II, 10) that no street franchise shall be granted for a longer period than twenty-one years, nor except upon payment to the city of compensation based upon the gross receipts of the franchise.

It is believed that these provisions will insure such publicity of the city accounts and of its relations with public service corporations operating municipal franchises, that it will be much more difficult than at present for political parties to form those connec-

tions with these corporations, which have in the past added so much to the strength of political parties at the expense of the highest interests of the city.

These are some of the methods adopted in the draft to diminish the temptations of State and national political parties to interfere in the management of city government.

What now has been done to narrow the opportunity of the parties to interfere? It has already been pointed out that one of the most favorable opportunities for such interference was to be found in the fact that the Legislature—a body peculiarly under political control—had in its hands the control of the city. It has also been shown that the attempt to prohibit special legislation—through which this control was largely exercised—has not been followed by the success which was anticipated; and that the reason of this comparative failure was to be found in the fact that the prohibition of special legislation had not been accompanied by the grant of large powers to the city.

The draft has (Const. Amend., Art. Third, 7; Mun. Corps. Act, Art. II) accordingly vested the city with the widest powers, in the hope that much special legislation would thereby become unnecessary. Indeed in this respect the plan proposed makes the most radical departure from existing conditions. It is based on the proposition that cities shall be authorities of general rather than of enumerated powers, and shall be subject to legislative control, only in so far as that is exercised by means of general laws applicable to all the inhabitants or all the cities of the State or by special laws passed in a manner which, it is believed, will prevent the passage of much special legislation, indeed of any special legislation which is not absolutely needed. The purpose of granting such wide powers of action to cities is not merely to make special

legislative action unnecessary, and thus to diminish the opportunity of the political parties in the control of the Legislature for interfering with cities to their disadvantage; it is also to give the people of the cities the widest opportunity for self-development and to bring home to them a sense of responsibility for their own welfare.

The draft further provides (Const. Amend., Art. Fourth) that every city of 25,000 inhabitants may frame its own charter, subject to the limitation that such charter shall provide for a mayor and council elected by the people; that the mayor shall appoint and remove all other officers subject to the obligation to appoint all officers for fitness to be ascertained, as far as practicable, by competitive examinations. Special provision (Const. Amend., Art. Third, 3) is made for permitting any city to adopt the referendum and initiative and any system of minority or proportional representation.

It is, of course, true that the limitations upon the power of the people of the cities relative to the kind of organization which they may adopt, lessen very greatly their power of framing their own charter. But it has been felt that while free play might be given the people of the cities as to the details of their city charters, it was wiser to fix beyond the possibility of change the general principles which should lie at the base of the municipal organization.

Such, then, are the means adopted to prevent the political parties in control of the Legislature from making use of the powers of this body over cities in their own interest and to the cities' disadvantage. No attempt has been made to define in the constitution what are municipal affairs which must not be interfered with. But care has been taken to grant the cities the widest possible powers, while reserving to the Legislature powers of control, the exercise of which is subject to such conditions as make it ex-

tremely improbable that special legislation can be resorted to for the accomplishment of improper ends.

While the draft does not, as has been pointed out, make any very extensive provision for the substitution of a central administrative control for the existing legislative control over cities, it still does allow of the development of such central administrative control, and it is believed that, so far as this method of central control shall take the place of special legislation, by so much will the opportunity for improper interference by political parties with municipal government be diminished, by so much will municipal government be taken out of politics.

The draft has finally attempted to provide a municipal organization so simple in character that municipal voters will place less reliance than at present on the political parties, may more readily than at present separate municipal from State and national issues, and may more easily than at present organize, separate from the State and national political parties, for the furtherance of these municipal issues.

One of the reasons—it might almost be said *the* reason—why the municipal voter has relied in the past on the State and national parties to fill elective municipal offices, is to be found in the great number of officers to be elected at any given election. If such an election be at the same time as a State election the voter is almost of necessity compelled to rely on the political party in which he on the whole puts his trust—with which he has been in the habit of acting. If this condition of things is further complicated by a party column blanket ballot the municipal voter is absolutely helpless except so far as he is aided by the political parties. The draft therefore provides, that municipal elections shall take place only once in two years, and that at each election for distinctively

city officers no more than two officers shall be elected, *i. e.*, the mayor and members of the council. When we add to this the provision that municipal elections shall not be held at the same time as State and national elections (Const. Amend., Art. First, 3; Mun. Corps., Art. VII, 2) we are justified in believing that the municipal voter will, if this principle is incorporated into law, at the same time not need to place the reliance he has to place at present on the national and State political parties, and will be able to vote not because of any influence which that vote will have on the future of his party, but because of the influence he thinks it will have upon the municipal issues in which he is interested.

With this same end in view, provision has been made (Ibid.) for nomination for municipal office by petition of a small number of citizens, for personal registration, an absolutely secret vote and a blanket ballot with the names of candidates alphabetically arranged under the title of the office and that each voter shall vote separately for each candidate for whom he votes. If such methods of nominations and elections are followed it is believed that voters may be able in their municipal elections either to break away altogether from the State and national parties and form separate municipal parties, or may, because of the greater powers of independent political action they will possess, be able to force the local organizations of the State and national parties to fight out city elections on the basis of city issues. Whichever may be the outcome is a matter of little importance, provided an unbiased and unprejudiced consideration of city issues by the city voters is secured.

Such, then, are the purposes of the draft, and such has been the way in which it has been attempted to effectuate them. It has been felt that city government must, to be efficient, be emanci-

pated from the tyranny of the national and State political parties, and from that of the Legislature—the tool of the party. It must, however, be subject to the proper control of the State government as the representative of the interests of the State. To avoid tyranny and preserve control is not easy. The problem may be solved, however, by diminishing both the temptations and opportunities for tyranny and by throwing limitations about the exercise of the control without destroying it. These temptations and opportunities have, it is hoped, been diminished by making special legislation very difficult, by enlarging the powers of the cities, by making the control of the city government of little value to the parties through reduction of patronage and a publicity of accounts, and finally by making it easy for the city voter to separate city from State and national issues, and to insist that these city issues shall receive attention apart from any considerations of national and State politics. The State control has been preserved, but its exercise has been taken from the legislative and intrusted to administrative officers wherever it has been felt that its preservation is absolutely necessary.

PUBLIC OPINION AND CITY GOVERNMENT UNDER THE PROPOSED MUNICIPAL PROGRAM

HORACE E. DEMING

Honest, efficient, and progressive city government is impossible in the United States without the support of a strong public opinion. Public opinion which can not be effectively expressed and carried out is, for practical purposes, non-existent. No proposition for the improvement of city government in the United States is worth consideration that does not provide for the full, free, and deliberate expression of the wishes of the voters and for the carrying of their wishes into effect. No scheme of city government will give promise of much improvement which will not develop an effective and general interest among the voters themselves in the actual conduct of the public affairs of the city.

One of the problems which the proposed Municipal Program undertakes to solve is to provide a form of city government which will compel the development of this interest, and upon which the public opinion of the voters, when deliberately expressed, will be effective.

To some it may seem a startling statement that, so far at least as city government is concerned, there is not only not now, but there never has been, a public opinion in the United States which has either prevented or corrected the principal evils of bad city government. But how else shall we account for the fact that the remedy for such evils has almost invariably been to deprive the city of power to perform the very functions which naturally belong to it? For example, the limitation of the city's power to levy

taxes for city purposes is almost universal in this country; the public opinion of its citizens is not deemed sufficiently intelligent or effective to keep the city from bankruptcy. And how otherwise shall we account for the general resort by the city to outside agencies in order to conduct purely city affairs? Witness the constant appeals to the State Legislature to remedy this or that purely local trouble or to create permanent or temporary boards of officials to perform purely local functions. Even in the election of the public officers of the city, its citizens rely mainly upon the agency of national or State political parties. Where in the United States is there a city which possesses all the powers requisite to conduct its local affairs without aid or interference from the State Legislature? or whose elective officers are not usually the product of the activities of national or State political parties? or in which the framework of the city government favors the full, free, and deliberate expression of the popular will as to the conduct of city affairs?

Sufficient reasons for this lack of local public spirit may be found in our political history.

From the origin of our government to almost the year 1876 the one great political question that, almost to the exclusion of every other, absorbed the attention of our citizens, was whether the United States were to be a nation or a federal league. From the surrender of Cornwallis to the withdrawal of the Union troops from the Southern States after the Civil War, the public had neither time nor inclination to consider problems of administration. It was not till the decade from 1876 to 1886 that the importance of good administration to good government began to attract public attention at all effectively. The century of political travail which had given birth to our national life left behind it,

moreover, political habits of thought and political methods of action which have made improvement in public administration difficult and slow. City government, more than either national or State government, is an administrative problem. Until 1860 our cities were few and small ; we may be almost said to have had no cities. What wonder, then, that, if there be not yet an enlightened public opinion sufficiently strong to compel the administrative service of the State or of the nation to be conducted upon an efficient and economical plan, there should also be lacking the enlightened public opinion to compel honest, efficient, and progressive city government?

Another historical reason for the lack of city public spirit has been the marked influence of the political theory of division of the fundamental powers of government among many different officials. The constitutional scheme of government devised by the fathers was one of checks and balances. A President, a Senate, a House of Representatives, and a Supreme Court, each the product of a different electorate or appointing body, and each vested with different functions, were set the one against the other to conduct the government. Only a portion of the population could take any direct part in selecting the rulers of the country. Even this limited class had no direct voice in the selection of President or Senators. The Supreme Court was appointed by the President. Representatives held office for two years, the President for four years, Senators for six years. A manifest tendency of such a plan was to produce inefficient administration and a government not responsive to the popular will. The division of power among so many different officers and the different sources from which these officers derived their authority, dissipated responsibility for official conduct. And, since the nearest approach of the government

to the people was the election of members of the House of Representatives by the limited class possessing the suffrage, those in charge of the practical conduct of public affairs were without direct responsibility to the people.

From the very beginning, the character of the questions which compelled attention in the field of national politics aroused intense popular interest; and the struggle on the part of the people for a more direct voice in public affairs and to create a government whose policy should be in more immediate accord with the popular will, led, among other things, to the abolishing of restrictions upon the suffrage and to the forming of political parties, whose adherents developed a partisanship the more intense because of the difficulties placed by the Constitution in the way of responsible and efficient government.

The political doctrine that the fundamental governmental powers should be apportioned among many different officials was combined with a firm belief in the beneficent political effect of frequent elections for short fixed terms, in order to insure that no man could stay long in public place without the continued approval of the body electing him.

These political doctrines made against administrative efficiency in public affairs. Their evil effects upon the administrative side of our national government have been very marked. Further complicated by the intrusion of absorbing and irrelevant questions of national politics, the natural result of their application to our city governments has been the chaotic irresponsibility so characteristic of most of them. The more officials to be elected and the more frequent the elections, the less efficient was the administration of city affairs; and the enlargement of the suffrage only served to aggravate the evils inherent in the system itself as applied to city

government, which is in its very nature principally an administrative problem. When cities were few and small and their administration comparatively simple, the evils were not perceived; and so universal and so firm was the belief in the political doctrines of divided powers and frequent elections, that as the cities multiplied and grew in size and their administrative problems increased in complexity, in variety, and in number, more elective offices were created, until the very multitude of offices and elections destroyed the possibility of a city government responsible to its citizens or of the existence of an effective public opinion as to the conduct of city affairs.

Other causes have co-operated to produce inefficient and irresponsible government of our cities, but these facts of our political history are a sufficient explanation of the general lack of active and effective interest by the citizens in the public affairs of their city.

The very considerable favor with which the Czar or good father theory of city government has met in recent years is a natural reaction from the disappointment in the practical working of the political doctrines of divided power and frequent elections for short terms of numerous officials. Under the Czar or good father plan, the mayor is a benevolent despot, the local legislature becomes a vanishing quantity, and the public policy of the city as well as the details of its administration are determined by the mayor, either directly or through subordinates appointed by him. Carried to its logical conclusion, this theory of city government would, according to its most earnest supporters, eliminate the State as well as the city legislature from the local field. But a benevolent despotism may easily become malevolent; and paternalism, even elective paternalism, can neither develop nor permit to be developed a healthy and enlightened popular interest in public

affairs. A fatal defect in this new plan is that there is no provision for a representative body, elected by the people, to determine the local public policy. Without the opportunity to determine such questions for themselves through their own representatives, there can never be developed among the citizens an enlightened and efficient public opinion as to the conduct of the city government. The effort which this system makes to do away with the existing chaos of irresponsibility deserves respectful consideration; but despotism, benevolent or malevolent, hereditary or elective, is foreign alike to American political traditions and to American political tendencies.

City government must be a government of the people, by the people, and for the people, through their chosen representatives, in order, on the one hand, to develop a general popular interest in the local public affairs, and, on the other, to make this interest effective. In other words, city government must be a representative democracy, if the public opinion of its citizens is to control its conduct.

The most persistent factors in the political development of the United States have been and are the growth of the belief in representative democracy and the increase of intelligent effort to make the belief an accomplished fact. The stream of political tendency in that direction is stronger and more evident to-day than at any previous period in our history. The framework of government imbedded in our national Constitution prevented the general public from having any direct voice in the administration of the government. The voters were a limited class set apart from the general body of the citizens. This select class chose members of the lower house of Congress and elected still smaller and more select classes, who in their turn elected the President and Senators. Gov-

ernment was removed from the people. It was not responsible to the people nor responsive to their will. The struggle for a government that should be responsible to the people and responsive to their will, in spite of the constitutional difficulties, has gone on ever since. The continued existence of the government has been due not so much to the perfection of the governmental machinery contained in the constitution, as to extra-constitutional and extra-legal devices through which the general public has sought and in considerable measure secured a direct voice in the conduct of public affairs. The line of political development in the United States leads directly toward representative democracy as the form of government best adapted to our needs. It is the recognition of this fact that inspires municipal reformers with the confidence that honest, efficient, progressive city government in this country is a certainty in a future not far distant.

Our efforts must be toward making city government a genuine representative democracy. No immovable constitutional barriers stand in the way. There need be no resort to extra-constitutional or extra-legal devices in order to make a simple form of government which shall be alike responsible and responsive to the people and which shall do away with the present condition, so universal in the cities of the United States—a form of government that prevents both the effective expression of public opinion and the development of any public opinion to be expressed.

Let us now test the provisions of the proposed Municipal Program. Upon the one hand, does it furnish the requisite governmental machinery, through which a strong and enlightened public opinion will necessarily be developed? And, upon the other, does it insure the effectiveness of public opinion deliberately formed and expressed? If the program fails in either respect it is worthless.

THE CITY UNDER THE PROPOSED MUNICIPAL PROGRAM.

The city's independence is guaranteed. The State Legislature can not meddle with purely local affairs. Its functions, so far as cities are concerned, are confined to passing laws applicable to all cities or all inhabitants of the State, unless the necessity or propriety of legislative action in the case of a particular city is so clear that a special law receives the affirmative vote of two-thirds of all the members of the Legislature and is formally approved by the council of the city, or, if disapproved, is within thirty days after such disapproval, again passed by a two-thirds vote, which must include three-fourths of the members from districts outside of the city concerned.[1]

The city must manage its own affairs. No outside authority can interfere with it. The city is vested with ample power to manage its own affairs. It may acquire, hold, manage, and control property. Within its corporate limits it has the same powers of taxation as are possessed by the State; it may license and regulate all trades, occupations, and businesses; it is vested with power to perform and render all public services, and with all powers of government subject to the State constitution, and to laws applicable to all cities of the State or to all the inhabitants of the State. It may establish minor courts for the enforcement of its ordinances.[2] The city, not the State Legislature, controls the granting of public franchises within the city's limits.[3] It may incur indebtedness up to a certain percentage upon the assessed valuation of the real estate within its limits, but debt incurred for self-supporting undertakings, which also take care of the current interest and of

[1] Constitution, Art. Third, Sec. 7.
[2] Constitution, Art. Third, Sec. 5.
[3] Constitution, Art. Third, Sec. 1.

the principal of the debt at maturity, are not included in the constitutional limitation.[4]

Contrast this ample grant of powers with the helpless condition of a city which may not even control its street franchises or the paving of its streets.

Guaranteed its independence, nay, compelled to act for itself, and clothed with ample powers to manage its own affairs, with what machinery is the city equipped to conduct its independent life? The business function of administration and the purely political function of determining the public policy to be administered are intrusted to entirely separate agencies. The former is given wholly to the mayor and his appointees who hold office without fixed terms. The members of the subordinate administrative service must be appointed and promoted upon the merit principle. Prompt dismissal from the service follows failure to perform their duties.[5]

All purely political functions are performed by the council, subject to the limited veto power of the mayor.[6]

The council is the local legislature elected by popular vote on a general ticket from the city at large, one-third of the council being elected at each city election.[7]

There are no gerrymandered election districts. The council has no patronage to dispense. Its membership is reasonably permanent, and a continuous public policy in important city matters is made possible. The council may establish any office necessary or expedient for the conduct of the city business or government and may fix its salary and duties.[8] It has absolute initiative in all

[4] Constitution, Art. Third, Sec. 2.
[5] Constitution, Art. Third, Sec. 6, Corporations Act, Art. IV., Sec. 16.
[6] Corporations Act, Art. V., Sec. 1.
[7] Corporations Act, Art. V., Sec. 2.
[8] Corporation Act, Art. V., Sec. 8.

public matters except as to the annual budget of current expenses, which must be submitted by the mayor. Any item in the budget may be reduced or omitted by the council, but it can not be increased.[9] The council is the grand committee of the citizens chosen by them for the purpose of determining and regulating all questions of city policy. It chooses the city controller, who holds office without fixed term, and is the city's chief financial officer, clothed with most important functions.[10] The registration of voters, the absolute secrecy of the act of voting are guaranteed.[11]

Nominations for mayor and for members of the council must be made by petition, and the voter must vote separately for each candidate for whom he desires to vote.[12]

The members of the council and the mayor are the only city officials elected by popular vote, and their election must occur at a different date from State or national elections.[13]

The council, if its action is ratified by the citizens, may establish a method of direct legislation, so that the voters may submit, and a majority thereof voting thereon may decide by direct vote upon propositions relative to city matters. In like manner minority or proportional representation as to elections to elective city offices may be established.[14] On a duly authenticated petition therefor, the questions whether direct legislation or minority or proportional representation shall be established, must be submitted to the voters for decision, without previous favorable action by the council.[15] The citizens of a city having a population of twenty-five thousand or more may, through a local charter

[9] Corporation Act, Art. III., Sec. 7.
[10] Corporation Act, Art. VI.
[11] Constitution, Art. First, Secs. 1 and 2.
[12] Constitution, Art. First, Sec. 3.
[13] Constitution, Art. Third, Sec. 6, Art. First, Sec. 3.
[14] Constitution, Art. Third, Sec. 3.
[15] Constitution, Art. Third, Sec. 3.

convention elected by themselves, if its action is ratified by them, have a charter and frame of government of their own devising, subject alone to the fundamental provisions of the State constitution.[16]

In city elections there will be neither need nor excuse for the antiquated, cumbrous, and complicated election methods now in use. Candidates for but two offices will be voted for, and the nomination of the candidates must be by petition. The ballot will be simple. The voter will not, confused by the multiplicity of offices and candidates, be forced to rely upon the guidance of the managers of his political party. He votes separately for each candidate for whom he desires to vote. The secrecy of his vote is guaranteed.

Such in brief outline is the city under the proposed Municipal Program. It is a representative democracy. Unable to resort to outside assistance and secure against outside interference, compelled to work out their own local destiny, clothed with ample powers to manage the city's business, its citizens are guaranteed that the public policy which they favor will be the policy of the city government; the very necessity of the case will develop an enlightened public opinion, which will determine the public policy. In such a government the will of the people when deliberately expressed will control, and the people can not escape expressing their will. The people are the government.

The conditions which create and continue the tyranny of the present type of political party managers are abolished, simple methods of nomination and election are established, and a form of city government is created which compels the conduct of city affairs to be at all times in accord with enlightened public opinion.

[16] Constitution, Art. Fourth.

A SUMMARY OF THE PROGRAM

L. S. Rowe

THE CONSTITUTIONAL AMENDMENTS

An examination of the provisions of the Constitutional Amendments will show that four distinct classes of subjects are treated:

I. The relation of the municipality to the State.

II. The powers of the municipality.

III. The procedure in the exercise of municipal functions.

IV. The electoral franchise and the application of the "merit" principle to the administrative service.

I

THE RELATION OF THE MUNICIPALITY TO THE STATE

CONSTITUTIONAL SAFEGUARDS AGAINST SPECIAL LEGISLATION

The inadequacy of the constitutional provisions usually adopted to provide against special legislation has been clearly demonstrated by the experience of most of our States. The two main causes of such failure are:

1. The absence of a definition of special legislation in the Constitution itself, the result of which is to permit such minute classification as to open the way to special legislation under the guise of general laws; and

2. The narrow powers granted to cities, which necessitate constant application to the Legislature for further powers, and thus systematically develop the habit of legislative interference. It has therefore been attempted in Article Third, Section 7, of the Constitutional Amendments to define special legislation as legislation which is not made applicable to all the cities of the State, or all the inhabitants thereof. The system proposed requires for such measures the action of an overwhelming majority of the Legislature, and in case of the disapproval by any of the cities affected, increases the safeguards by requiring that the two-thirds majority shall include three-fourths of the members of the Legislature from districts outside of the city or cities affected.

In order further to reduce the necessity for special legislation, the amendments provide for a liberal grant of municipal powers, thus diminishing the dependence of the city upon the State Legislature. This method of regulating special legislation will protect the paramount interests of the State, and at the same time assure to the cities all necessary freedom of action. As a further guaranty to such freedom of action, the amendment provides that all cities having a population of 25,000 or over may frame their own charters, subject to the Constitution and to the power of the Legislature to pass laws under the restrictions regarding special legislation above outlined.

The experience of the States in which this system has been tried (Missouri, California, Washington) fully justifies the extension of the plan. It gives to the charter the character of a fundamental law, the product of local initiative, and sustained by the expressed approval of the citizen body. There can be but little doubt that such a plan will exert a marked influence upon the attitude of the State Legislature toward city charters.

CONSTITUTIONAL PROVISIONS REGULATING MUNICIPAL ORGANIZATION

In these provisions the endeavor has been made to formulate the principles which the experience of American and European cities has shown to be necessary to efficient municipal organization. With but few exceptions, they have been tested in one or a number of American cities, while in those cases in which present practice has been departed from the reasons favoring such change are such as to leave but little room for difference of opinion.

THE GENERAL PLAN OF MUNICIPAL ORGANIZATION

Article Third, Section 6, separates the executive and administrative functions of the local government from the legislative or policy-determining powers, and vests the latter in a Council elected by the people. It is true that in many cases a sharp dividing line between these two classes of functions is not possible. The abuses directly traceable to the unwillingness of local assemblies to make any distinction have made the recognition of this principle of great importance.

This section furthermore abolishes fixed terms of office, except for officials elected by popular vote, and makes the Mayor and the members of the Council the only city officers so elected. The Mayor is the chief administrative officer of the city, with power to appoint and remove all heads of departments except the head of the Finance Department, and, subject to the application of the "merit principle," has the power to appoint all officials in the subordinate administrative service of the city. The recommendation that heads of departments be appointed by the Mayor is in harmony with a principle that is rapidly receiving general acceptance throughout the United States. It is believed that these officers

should not be appointed for fixed terms. The system which prevails at present creates the impression that each incoming Mayor should appoint a new set of departmental heads. Everything should be done to favor long terms of administrative officers performing efficient, non-partisan service, and with this in view the heads of departments are to hold office until their successors are appointed.

II

POWERS OF THE MUNICIPALITY

As regards the powers of the municipality, it is evident that the constitutional provisions proposed give to the municipality the widest possible discretion in determining the sphere of its activity. In fact, one of the main ends of the amendments and act has been to assure to every city a large measure of freedom in the determination of local policy. This recommendation is unquestionably a departure from the traditional rules of the law of public corporations. The courts have always required a specific grant from the Legislature to justify an exercise of local authority. In giving to the municipality all powers not inconsistent with the general laws of the State, the endeavor has been made to reverse the policy of the past and to create the presumption in favor of the broadest exercise of municipal powers. The history of municipal government clearly shows that the constant appeals to the State Legislature for additional powers has been one of the most unfortunate influences in our public life. It has created the impression that the real seat of city government is in the State Legislature, rather than in the city authorities, and has developed the unfortunate habit of constant interference by the former body in local affairs.

LIMIT OF CITY INDEBTEDNESS

Provisions limiting city indebtedness are to be found in most State constitutions or municipal corporation acts. Article Third, Section 2, permits the people of each State to determine the limits of indebtedness. In determining the limits of debt-contracting power a distinction should be made, however, between the indebtedness incurred in the purchase, construction, and improvement of revenue-producing enterprises and that which represents investment which, although beneficial to the community, gives no direct return. For instance, a debt incurred in the construction of gas-works, or waterworks, does not represent a real financial burden, since the interest and sinking fund charges are usually paid out of the profits of these enterprises. It is manifestly inexpedient so to limit the debt-contracting power of the municipality as to prevent it from performing important public services. The plan recommended provides all necessary safeguards for the increase of municipal indebtedness and still leaves sufficient freedom to meet the requirements of municipal development. To permit the increase of indebtedness for the purchase of remunerative public works after an affirmative vote by two-thirds of the members of Councils and subject to the approval of the citizens at the next ensuing election of city officers, should meet the views of the most conservative.

It is important to note in this connection that while the constitutional provision leaves the city complete freedom in determining the price to be charged for gas, water, electric light, etc., the exclusion of the indebtedness incurred in the construction or equipment of the plant from the debt limit is dependent upon the ability to meet cost of operation, administration, interest, and sinking-fund charges from the income of each of such public works.

MINOR COURTS

The authority of the city to establish minor courts for the enforcement of obedience to city ordinances and with such further jurisdiction as is consistent with the general judiciary system of the State, will, without conflicting in any way with such system, and, indeed, in strict subordination to it, furnish a necessary agency for the efficient conduct of the local government.

III

THE PROCEDURE IN THE EXERCISE OF MUNICIPAL FUNCTIONS

MUNICIPAL FRANCHISES

In Article Third, Section 1, the city's property in its streets, docks, ferries, bridges, and public places is declared to be inalienable, except by a four-fifths vote of all the members elected to the Council, and approved by the Mayor. Careful constitutional provisions have been formulated as to the method of granting franchises. That such franchises should be granted for a limited period only is a principle that has now received very general acceptance. The application of this principle is of particular importance in a country like the United States, where the legislative authority is restricted by the constitutional guarantees of vested rights. With us the grant of valuable franchises for an indefinite period is in fact, if not in law, irrevocable. The enormous value of such franchises makes it practically impossible for a city to repurchase them without seriously impairing its finances. The end in view has been to make the franchise grant in the nature of a lease for a short term, at the expiration of which the city, as lessor, enters into possession. The limits of the lease have been fixed at twenty-one

(21) years; a term amply sufficient to offer all necessary inducements to private corporations.

The provision for the compulsory public accounting of all grantees of franchises is regarded as a condition *sine qua non* to the control of private corporations performing quasi-public services. The history of the relation of such corporations to the municipality has shown that the latter is practically helpless unless it can determine beyond dispute the financial condition of the corporation, and in this way arrive at an accurate estimate of the real value of the franchise.

CITY ACCOUNTING

The provisions in Article Third, Section 4, constitute a first step toward greater uniformity in municipal bookkeeping, a reform of the greatest importance. At the present time the variety of city accounts is so great, municipal bookkeeping is in such a chaotic condition, that it is almost impossible for anyone not an expert to inform himself as to the financial condition of his own or any other city. It is impossible to ascertain whether any of the city's municipal works are yielding a profit, or whether the sum reported as profits should, in reality, be charged to depreciation or to interest and sinking fund. The provision proposed requires financial reports to be made to the Controller or other fiscal authority of the State, in accordance with the forms and methods prescribed by him. Such reports will be public records, and will furnish the basis for an intelligent judgment as to the financial condition of our cities. The forms prescribed by the State Controller, or such officer as may be designated, will certainly react upon the method of city accounting, introducing a highly desirable clearness and simplicity.

IV

THE ELECTORAL FRANCHISE AND THE "MERIT" PRINCIPLE IN THE ADMINISTRATIVE SERVICE

PERSONAL REGISTRATION

The requirement in Article First, Section 1, that there shall be a personal registration of voters, is intended to prevent the "packing" of electoral lists which prevails to such an alarming degree in most of our large cities. In many cases the elections fail to give a true picture of the condition of public opinion, owing to the large number of "colonized" or fictitious voters.

SECRET BALLOT

The maintenance of the secrecy of the ballot which the Australian system was expected to assure has proved one of the most difficult of the many questions connected with ballot reform. That such secrecy is necessary for the free expression of individual choice is generally conceded; that it is attainable is shown by the experience of at least one of our States. Article Second, Section 2.

SEPARATION OF MUNICIPAL FROM STATE AND NATIONAL ELECTIONS

The main value of the principle of separate municipal elections is that it secures for local questions the careful consideration of the population undisturbed by the intrusion of irrelevant issues. It is important to note that the provision goes no further than to favor an examination of local issues on their merits. As to the nature of the political organizations which should stand back of such issues the Program does not undertake to make any recommendations. On this point the free play of political forces rather than constitutional or statutory enactments must determine the result. Article First, Section 3.

MERIT SYSTEM OF APPOINTMENT AND PROMOTION IN THE ADMINISTRATIVE SERVICE

The Constitutional Amendments, while distinctly affirming, in Article Third, Section 6, the "merit" principle in the making of appointments, leave the details of the system to the Municipal Corporations Act. Article 4. The most important provision under this head is the principle of "indefinite tenure," which is intended to reverse the presumption in favor of removing all officials at stated periods. Much of the administrative work of the municipality requires technical training and long experience in the actual management of affairs. Our present system discourages both. Trained experts are unwilling to abandon permanent positions with private companies to enter upon the uncertain tenure of municipal service. A further consequence of short tenure even more serious in its effects is that comprehensive plans for municipal improvement are discouraged. A head of department will hesitate before undertaking the execution of public improvements which he can not expect to carry to a successful conclusion during his term of office.

MINORITY OR OTHER SYSTEMS OF REPRESENTATION

On this question the Constitutional Amendments simply give power to the Council to establish a system of minority or proportional representation. The present methods of representation in our legislative assemblies are deemed by many thoughtful and discerning men to be inadequate, and to be the cause of much political evil. The commission that framed the charter for the Greater New York recommended the adoption of an amendment to the State Constitution, so that the principles of minority or proportional representation might be applied by the citizens of that city. The city should be at liberty to adopt minority or proportional or such other

method of representation in elections to municipal elective offices as the general body of the voters may desire. Article Third, Section 3.

It may be said in concluding the analysis of this portion of the Program that the Constitutional Amendments proposed are designed to give the municipality a more definite place in our political system than it at present enjoys; to give it that freedom of action which is the necessary accompaniment of growth and expansion, and to place within its power the determination of local policy whenever such policy is not inconsistent with the general welfare of the State. That the principle itself is a sound one is attested by the accumulated experience of the nations of Western Europe and the more negative lessons of American municipal development.

THE MUNICIPAL CORPORATIONS ACT

In discussing the provisions of the proposed Constitutional Amendments I have presented, at the same time, the leading features of the Corporations Act. The proposed constitutional changes are intended to guarantee local freedom, as well as stability in city government; but most of the important provisions of the Corporations Act can be enacted into valid law without any constitutional change.

It will be seen, at first glance, that as regards administrative organization the widest possible freedom has been given to every city. Under the provisions of this act it will be possible for cities, large or small, to adopt a form of organization suited to their needs.

Following the same plan as in the discussion of the Constitutional Amendment, and omitting topics already discussed, we have to deal first with the

I

ORGANIZATION OF THE CITY GOVERNMENT

THE CITY COUNCIL

The organization of the City Council, as recommended in the Program, provides for a single chamber. (Article V, Section 1.) The justification for the division of representative bodies into two chambers is to be found in the desire to protect the life, liberty, and property of the citizen against hasty or ill-considered legislative action. The reasons supporting such a system are considerably weakened when the main dangers from hasty action are guarded against by means of constitutional provisions or statutory enactments. This has been done by prescribing the conditions under which franchises may be granted, limiting indebtedness, etc. The history of American municipalities has proved that the effect of the bicameral system has been to dissipate, if not to destroy, real responsibility. The organization of city government must be such as to assure responsible positive action rather than to provide a series of "checks and balances." At the present time what we have most to fear in our municipalities is irresponsible action. The local legislature should be the standing committee of the body of citizens. One branch of that committee should not be permitted to shift its responsibility by throwing the blame for inaction or ill-advised action upon the other. The provision for a unicameral Legislature is but the logical application of the idea of political responsibility, which has come to be a guiding principle in the efforts for municipal reform.

The recommendation in Article V, Section 2, that all the members of the Council be elected on a general ticket from the city at large may be regarded as somewhat of an innovation. It will be

remembered, however, that cities with a population of 25,000 or over are given the power to frame their own charters, and, in so doing, may adopt the district plan, or a combination of district and general representation. For the smaller cities there is no valid reason for district or local representation. Our experience with such representation has been of a kind to discourage its continuance whenever and wherever possible.

The recommendation that the term of Councilmen be made six years marks a distinct departure from the existing practice in most American cities. It must be kept in mind, however, that the Mayor is elected every two years. The fact that he exercises such far-reaching power over the administrative work of the city will make his election the occasion for a popular judgment upon his policy. With him one-third of the Council is elected, which will permit a general review of both administrative and legislative policy. The arrangement of terms of office as recommended will make possible the complete separation of local from national and State elections.

As a further safeguard against hasty action the Program provides, in Article V, Section 7, that the meetings of all committees of Council be public. With the present system of committee government in all legislative assemblies it has become a matter of considerable importance that the scrutiny of public attention be directed to the proceedings of such bodies.

THE MAYOR

The reason for making the term of office of the Mayor two years have been discussed in connection with the organization of the City Council. The powers of appointment and removal which the Mayor enjoys give him a position of permanent importance in the conduct of city affairs (Article III). As to the advisability

of vesting such far-reaching powers in any one official it is only necessary to point to the development of municipal institutions in the United States during the last ten years. The concentration of administrative power in the Mayor is now regarded as an essential requisite to efficiency.

MUNICIPAL DEPARTMENTS

As regards municipal departments, it will be noticed that the charter contains but few provisions relating to their organization. This is explained by the fact that the number and organization of departments differ according to the size of the city and the scope of its functions. The only head of department specifically named in the act is the City Controller, who is to be elected, and may by resolution be removed, by the Council.

The following reasons have been influential in causing this power to be vested in the Council: It has been desired to give the Council an important place in the organization of the municipality. The tendency to reduce the Council to an insignificant position is hardly in harmony with our democratic institutions, and carries with it grave dangers to our civic life. Furthermore, the important position assigned to the Controller as the head of the finance department, exercising complete supervision over the disbursement of city funds and over the accounts of public-service corporations, makes it desirable, if not absolutely necessary, that his term of office should be a long one. A long term, experience goes to prove, is incompatible with popular election. While such a term is not absolutely assured by the method provided for filling the office, it is perfectly possible, if not probable, that a Controller elected by the Council for an indefinite term will become a relatively permanent officer. His appointment by the Mayor is eminently improper,

since it is to him that the citizen has to look to prevent any misapplication of revenue by the Mayor and his appointees. For these reasons, and in order to reduce to as small a number as possible the officers elected by the people, it has been provided that the Controller shall be elected for an indefinite term by the City Council.

AUDIT OF MUNICIPAL ACCOUNTS

The provision in Article II, Section 15, for the auditing of municipal accounts by the fiscal officer of the State, or by some official deputed by him for this purpose, represents an important innovation which it is felt will be productive of much good. The experience of many of our larger cities has shown the necessity for an independent audit of city accounts, as an additional safeguard against dishonesty and fraud on the part of the local financial officers. The system thus provided will also guard against the possibility of collusion between the Council and the Controller.

MUNICIPAL CIVIL SERVICE

While not providing fixed terms for the subordinate officers of the city government, the Program makes provision (Article IV) for a power of removal to be exercised by the Mayor, subject to no limitations except that he may not remove an officer for political reasons, and that in case of a removal a statement of the reasons therefor shall be made. Appointment of all subordinate officers must be made on the basis of merit, which shall be shown, wherever practicable, by competitive examination. In the framing of the provisions of the Act relative to this matter it was necessary to enter into greater detail than will be found in any other portion of the draft. This policy has been adopted be-

cause the experience of the United States shows that it is unsafe to leave this matter to the discretion of the appointing officer, and because the same experience has justified and approved the soundness of the regulations recommended in the act.

PUBLIC SCHOOLS

It will be noticed that the draft makes no specific provision for the organization of the educational department. The school administration has been on the whole one of the most satisfactory departments in our local governments. In a large number of cities it has not been regarded, strictly speaking, as a part of the municipal administration. This department is often assigned to a school board elected or appointed by an authority other than the Mayor or the Council, and exercising powers more or less independent of both. It has been deemed unwise to recommend any change in those cases in which the present system has proved satisfactory. It is well to bear in mind, however, that the independence of the school administration has diverted from the city government some of the best energies of the community. By making this department a branch of the city government, the interest in the general affairs of the municipality and in the character of the candidates for the Council will be greatly increased. Such an arrangement of the relation of the city to the public schools is made possible under the proposed draft. It will be noted that the city is, in Article XI, Section 8, made the agent of the State for the administration of the general laws for which no other specific authority has been provided. The schools may thus be made a branch of the city administration where there is no general school law providing for the vesting of this power in another authority.

II

POWERS OF THE CITY

This question has been sufficiently discussed in connection with the Constitutional Amendments, Article Second.

III

METHODS OF PROCEDURE IN THE EXERCISE OF LOCAL GOVERNMENTAL FUNCTIONS

An examination of the charter will show that the provisions under this head are more numerous than those relating directly to the grant of municipal powers. Without unduly limiting local discretion in the manner of exercising local functions, the Program endeavors to fix the standards, conformity to which will contribute toward efficiency in government.

CONCLUSION

Municipal government in this country offers such great diversity of local conditions that an attempt to frame a general charter is certain to violate some local traditions. Good government is not to be achieved at a single stroke, nor should the importance of the form of governmental organization be exaggerated as a factor contributing to this end.

Civic advance in general and municipal efficiency in particular are the result of a combination of forces, of which higher standards of public opinion and lofty civic ideals are the most important. The form of governmental organization is to be judged by the ease and readiness with which it gives expression to these forces. In the Constitutional Amendments and Municipal Corporations Act the

endeavor has been made to give to the city such a position in the political system of the State and to provide it with such a framework of government as will give the widest possible freedom of action to every city in formulating the details of its own organization and in the determination of its local policy.

CONSTITUTIONAL AMENDMENTS

ARTICLE FIRST.

SECTION 1. The right to vote and registration.

SEC. 2. Secrecy in voting.

SEC. 3. Separation of City Elections from State and National Elections. Nominations to City Office. Method of Voting.

ARTICLE SECOND.

No private or local bill granting exclusive privileges, immunities, or franchises.

ARTICLE THIRD.

SECTION 1. A city's public places inalienable. Franchises for their use only for limited term. Stated financial reports of the grantee and right of city to inspect grantee's books a condition of their grant.

SEC. 2. Limitation of city's power to incur debt and of its tax rate.

SEC. 3. City's power to establish direct legislation or minority or proportional or other form of representation as to elections to elective city offices.

SEC. 4. Uniform methods of city accounting.

SEC. 5. City may establish minor courts.

SEC. 6. Organization of cities hereafter created must provide for Mayor vested with executive power of city and appointing heads of all city departments except Finance Department; a council; appointments and promotions in administrative service on the merit principle; mayor and members of council only city officers elected by popular vote.

SEC. 7. General powers of cities.

SEC. 8. Legislature shall pass a general municipal corporations act.

ARTICLE FOURTH.

A city having a population of twenty-five thousand or more may adopt its own charter and frame of government.

ARTICLE FIFTH.

PETITIONS.

CONSTITUTIONAL AMENDMENTS

ARTICLE FIRST.

SECTION 1. *The Right to Vote and Registration.* Laws shall be made for ascertaining by proper proofs the citizens who shall be entitled to vote at popular elections and for the personal registration of voters, which registration shall be completed at least ten days before each election.

SEC. 2. *Secrecy in Voting.* All elections by the citizens shall be by a secret ballot or by such other method as may be prescribed by law, provided that absolute secrecy in voting be preserved. No voter shall disclose at any polling place or within —— feet thereof how he has voted.

SEC. 3. *City Elections and Nominations. Method of Voting.* Elections of city officers elected by popular vote shall occur at a different date from that of any election by popular vote of officers of the State or National government. Nominations of such city officers shall be by petition, signed by qualified voters of the city concerned. The number of the signatures to such petition shall be determined by the council of the city concerned, but not more than fifty signatures shall be required. Such petition shall be filed in the office of the mayor at least thirty days before the date of the election; provided, however, that in the case of the death or withdrawal of any candidate so nominated such petition may be so filed within a less period than thirty days. The voter must vote separately for each candidate for whom he desires to vote; if the election is by ballot the council of the city shall determine the form of the ballot to be used, but the names of all candidates for the same city office must be printed upon the ballot in alphabetical order under the title of the office.

ARTICLE SECOND.

Private Bills. The Legislature shall not pass a private or local bill granting to any private corporation, association, or individual any exclusive privilege, immunity, or franchise whatever.

ARTICLE THIRD.

SECTION 1. *Streets and Public Places. Franchises.* The rights of every city now existing, or hereafter created within the State, in and to its water front, ferries, wharf property, land under water, public landings, wharves, docks, streets, avenues, parks, bridges, and all other public places, are hereby declared to be inalienable, except by a four-fifths vote of all the members elected to the Council approved by the Mayor; and no franchise, lease or right to use the same, either on, through, across, under, or over, and no other franchise granted by a city, to any private corporation, association, or individual, shall be for a longer period than twenty-one years. Such grant and any contract in pursuance thereof may provide that upon the termination of the grant, the plant, as well as the property, if any, of the grantee in the streets, avenues, and other public places shall thereupon, without further or other compensation to the grantee, or upon the payment of a fair valuation thereof, be and become the property of the city; but the grantee shall be entitled to no payment because of any valuation derived from the franchise. Every grant shall specify the mode of determining any valuation therein provided for, and shall make adequate provision by way of forfeiture of the grant, or otherwise, to secure efficiency of public service at reasonable rates, and the maintenance of the property in good order throughout the term of the grant. Every grantee of such franchises or rights to use shall keep books of accounts and make stated quarterly reports to the Financial Department of the city, which shall contain an accurate statement in summarized form and also in detail of all financial receipts from

all sources and all expenditures for all purposes, together with a full statement of assets and debts, as well as such other information as to the financial condition of such grantee as said department may require, and said department may inspect and examine, or cause to be inspected and examined, at all reasonable hours, any books of account of such grantee.

SEC. 2. *Municipal Indebtedness. Tax Rate.* No city shall hereafter give any money or property, or loan its money or credit to or in aid of any private individual, association, or corporation; but it may make such provision for the aid and support of its poor as may be authorized by law.

No city shall become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed —— per centum of the assessed valuation of the real estate within such city subject to taxation as shown by the last preceding assessment for State or city taxes; provided, however, that in determining the limitation of the city's power to incur indebtedness there shall not be included the following classes of indebtedness:—

(1) Certificates of indebtness or revenue bonds issued in anticipation of the collection of taxes, unless the same be not paid within two years from the date of issue; and all certificates of indebtedness and revenue bonds shall be provided for and payable from the taxes levied for the year in which they are issued, and shall never exceed the amount of such taxes;

(2) Or bonds authorized by the affirmative vote of two-thirds of the members of the Council, approved by the Mayor and approved by the affirmative vote of the majority of the qualified voters of the city voting upon the question of their issuance at the next ensuing city election, for the supply of water or for other specific undertaking from which the city will derive a revenue; but from and after a period to be determined by the Council, not exceeding five years from the date of such election, whenever and for so long as such an undertaking fails to produce sufficient

revenue to pay all costs of operation and administration (including interest on the city's bonds issued therefor and the cost of insurance against losses by fire, accidents and injuries to persons) and an annual amount sufficient to pay at or before maturity all bonds issued on account of said undertaking, all such bonds outstanding shall be included in determining the limitation of the city's power to incur indebtedness, unless the principal and interest thereof be payable exclusively from the receipts of such undertaking. The City Controller shall annually report to the Council in detail the amount of the revenue from each such undertaking and whether there is any and, if so, what deficit in meeting the requirements above set forth.

Provision shall be made at the time of their issue for raising a sum of money by taxation sufficient to pay, as it falls due, the interest upon all city bonds not exclusively payable from the receipts of revenue-producing undertakings, and to pay and discharge the principal thereof within———*years from the date of their issue; but whenever in any year the receipts from any revenue-producing undertaking shall be sufficient to pay the costs of operation and administration as above defined, and the annual amount hereinbefore required, the tax to pay the interest and provide for the principal of the bonds issued for such undertaking shall not be collected, and the same shall be paid from such receipts.

The amount to be raised by tax for city purposes upon real and personal property, or either of them, in addition to providing for the principal and interest of the then outstanding bonded indebtedness shall not in the aggregate exceed in any one year——per centum of the assessed valuation of the real estate subject to taxation by such city, to be ascertained as hereinbefore prescribed in respect to the city debt.**

* This period should not, in the opinion of the committee, exceed thirty years.

** Under this section a city may issue long-term bonds, establish and maintain a sinking fund sufficient to provide for their payment at maturity; or it may have the bonds so drawn that a certain number will mature each year and be paid from the tax as collected. By the latter method the city avoids any risk incident to a sinking fund, the loss of interest on money not invested, any premiums it might pay to buy back its own bonds and the abuses incident to large accumulations of uninvested money.

SEC. 3. *Direct Legislation. Minority and Proportional Representation.* The Council of any city may, with the consent of the majority of the qualified voters of the city voting thereon at the next ensuing city election taking place not less than —— days thereafter, establish a method of direct legislation so that qualified voters of the city may submit and a majority thereof voting thereon may decide by direct vote propositions relative to city matters, and may also in the same manner establish minority or proportional or other method of representation as to elections to elective city offices. On a petition therefor, filed in the office of the Mayor, signed by qualified voters of the city, equal in number to two per cent. (which shall not be less than one thousand) of those voting at the last preceding city election, a proposition to establish a method of direct legislation, or to establish minority or proportional or other method of representation as to elections to elective city offices, must be submitted to the qualified voters of the city at the next ensuing city election occurring at least —— days thereafter; if a majority of such voters voting upon such proposition are in favor thereof, it shall go at once into effect.

SEC. 4. *Uniform Methods of City Accounting.* Every city shall keep books of account. It shall also make stated financial reports at least as often as once a year to the * in accordance with forms and methods prescribed by him, which shall be applicable to all cities within the State; such reports shall be printed as a part of the public documents of the State, and submitted by the * to the Legislature at its next regular session. Such reports shall contain an accurate statement in summarized form and also in detail of the financial receipts of the city from all sources, and of the expenditures of the city for all purposes, together with a statement in detail of the debt of said city at the date of said report, and of the purposes for which such debt has

* State Controller or other officer, or board which may exercise supervision over municipal finances.

been incurred, as well as such other information as may be required by the *. Said * shall have power by himself, or by some competent person or persons appointed by him, to examine into the affairs of the financial department of any city within the State. On every such examination inquiry shall be made as to the financial condition and resources of the city, and whether the requirements of the constitution and laws have been complied with, and into the methods and accuracy of the city's accounts, and as to such other matters as the said * may prescribe. The * and every such examiner appointed by him shall have power to administer an oath to any person whose testimony may be required on any such examination, and to compel the appearance, attendance and testimony of any such person for the purpose of any such examination, and the production of books and papers. A report of each such examination shall be made, and shall be a matter of public record in the office of said *.

SEC. 5. *City Courts.* Cities may establish minor courts, which shall have exclusive civil and criminal jurisdiction in the first instance for the enforcement of city ordinances and of penalties for violations thereof. Such courts shall have such further or other jurisdiction as may be conferred by the Legislature, subject to the other provisions of this constitution, but they shall not have any equity jurisdiction, nor any greater jurisdiction in other respects than is conferred upon † No one shall be eligible to appointment as such justice unless he has been ** for at least five years. Such justices shall be subject to the same liabilities, and their judgments and proceedings may be reviewed in the same manner and to the same extent as is now or may be provided by law in the case of † The justices of such courts and, except as otherwise in this constitution provided,

* State Controller or other officer, or board which may exercise supervision over municipal finances.

** An attorney and counselor-at-law of the State, or some equivalent expression appropriate to the particular State.

†Some lower court recognized as a regularly constituted part of the State's judicial system.

all other city judicial officers shall be appointed by the Mayor, and may be removed by him in the same manner as officers in the subordinate administrative service of the city.

SEC. 6. *Municipal Organization.* In the organization of every city hereafter created provision shall be made:

For a Council, the members of which shall be elected by the people;

For a Mayor elected by the people.

The Mayor shall be the chief executive officer of the city, and shall appoint and remove all heads of departments in the administrative service of the city, except the head of the Finance Department, who shall be known as the Controller.

The Mayor shall appoint and remove all other officers, agents and employees in the administrative service of the city, and fill all vacancies therein, provided, however, that laborers may be appointed and removed by the heads of departments in which they are employed and that all appointments and promotions in the subordinate administrative service of the city, including laborers, shall be made solely according to fitness, which shall be ascertained, so far as practicable, by examinations that, so far as practicable, shall be open competitive examinations.

All persons in the administrative service of the city, except the Mayor, shall hold their offices without fixed terms.

The Mayor and members of the Council shall be the only city officers elected by popular vote.

SEC. 7. *General Powers of Cities.* Every city within the State shall be vested with power to acquire, hold, manage, control and dispose of property. Within its corporate limits, it shall have the same powers of taxation as are possessed by the State; it may license and regulate all trades, occupations, and businesses, and shall be vested with power to perform and render all public services, and with all powers of government, subject to such limitations as may be contained in the constitution and laws of

the State, applicable either to all the inhabitants of the State or to all the cities of the State, or in such special laws applicable to less than all cities of the State, as may be enacted in the manner hereinafter provided.

Special laws shall require the affirmative vote of two-thirds of all the members of the Legislature, and shall not be valid in any city unless they receive the formal approval of its Council within sixty days after the passage thereof by the Legislature, or, within thirty days after disapproval by the Council of the city, shall again be passed by the Legislature by the affirmative vote of two-thirds of all the members of the Legislature, which two-thirds shall include three-fourths of the members of the Legislature from districts outside of the city or cities to be affected. The failure of the Council of the city to take formal action approving or disapproving a special law shall be deemed a disapproval thereof. Laws repealing such special laws may be passed in the manner provided for the passage of general laws.

SEC. 8. *General Municipal Corporations Act.* The Legislature shall pass a general municipal corporations Act applicable to all the cities in the State which shall, by popular vote, determine to adopt it.

ARTICLE FOURTH.

Power of Cities to Frame their Own Charters. Subject to the constitution and the laws of the State, applicable to all of the inhabitants or all the cities thereof, and to such special laws as may be passed in the manner hereinbefore provided, any city having a population of twenty-five thousand or more may adopt its own charter and frame of government in the following manner:

The Council of said city may, and, on a petition therefor, filed in the office of the Mayor, signed by qualified voters of the city equal in number to two per cent. (which shall not be less than one

thousand) of those voting at the last preceding election, must, provide by ordinance for an election to take place not less than —— days nor more than —— days thereafter, upon a proposition for the election of a board of not less than fifteen nor more than —— members, to prepare and propose a charter and frame of government for such city. If such proposition shall receive the affirmative vote of a majority of the qualified voters of the city voting thereon, the Council must, within fifteen days thereafter, provide for the election of such a board within not more than —— days. It shall be the duty of said board to convene upon the ———————— after said election, and thereafter and within —— days to prepare and propose a charter and frame of government for such city, which shall be signed in duplicate by the members thereof or a majority of them, and returned, one copy thereof to the Mayor and the other to the Secretary of State. Such proposed charter and frame of government shall then be published daily in two papers of general circulation in such city for at least twenty days, and within not less than thirty days and not more than sixty days after such publication, shall be submitted to the qualified voters of such city at a special or general municipal election, and the Council of said city shall provide by ordinance for the holding of such special election unless a general municipal election shall be held within the time hereinbefore prescribed.

If a majority of the qualified voters of the city voting thereon shall ratify the same, it shall become the charter and frame of government of such city and the organic law thereof, and supersede and repeal all laws inconsistent therewith and any existing charter and all amendments thereof. A copy of such charter and frame of government duly certified by the proper authorities of such city, setting forth its submission to the legally qualified voters of the city and its ratification by them, shall be made in duplicate, and deposited, one in the office of the Secretary of State

and the other among the archives of the city. All courts shall take judicial notice thereof. The charter and frame of government so adopted may be amended at intervals of not less than two years by proposals therefor which the Council of the city may, and when requested by a petition filed in the office of the Mayor, signed by qualified voters of said city equal in number to two per cent (which shall not be less than one thousand) of those voting at the last preceding city election, must submit at the next city election held at least sixty days after the adoption of the ordinance or the filing of such petition in the office of the Mayor. Each such proposed amendment before it goes into effect must be ratified by a majority of the qualified voters voting thereon, as herein provided for the adoption of the charter and frame of government. In submitting any such proposal any alternative article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to others.

ARTICLE FIFTH.

Petitions. After the filing of a petition in accordance with the provisions of the foregoing articles, if the Council of the city neglects or fails to provide by ordinance for an election as hereinbefore directed, then it shall be the duty of the Mayor to order such election, and his order for such purpose, duly signed by him and filed in the archives of the city, shall have the same force and effect as an ordinance for the same purpose.

The petitions mentioned in the foregoing articles need not be one paper, and may be printed or written, but the signatures thereto must be the autograph signatures of the persons whose names purport to be signed. To each signature the house address of the signer must be added, and the signature must be made and acknowledged or proved before an officer authorized by law to take acknowledgment and proof of deeds. The certificate of such officer under his official seal that a signature was so made and

acknowledged or proved shall be sufficient proof of the genuineness of the signature for the purposes of these articles.

The signing of another's name, or of a false or fictitious name, to a petition, or the signing of a certificate falsely stating either that a signature was made in the presence of the officer or acknowledged or proved before him, shall be punishable as felonies.

MUNICIPAL CORPORATIONS ACT.

ART. I.

INCORPORATION OF CITIES. PROCEDURE FOR ORGANIZATION OF EXISTING CITIES UNDER THIS ACT AND FOR ANNEXATION OF TERRITORY.

SECTION 1. Cities, villages, towns, and boroughs heretofore incorporated may organize under this Act.

SEC. 2. How a city organized under this Act may annex territory.

ART. II.

POWERS OF CITIES.

SECTION 1. Corporate Powers.

SEC. 2. Powers of Ordinance.

SEC. 3. Street Powers, Water-works, Buildings, and Sewers.

SEC. 4. Wharves, Docks, Harbor and Ferries.

SEC. 5. Markets, Market Places, and Abattoirs.

SEC. 6. Charities and Correction.

SEC. 7. Fines, Penalties and Imprisonment.

SEC. 8. Schools, Museums, Libraries, and Other Institutions.

SEC. 9. Minor Courts.

SEC. 10. Franchises.

SEC. 11. Contracts for Labor or Materials Limited to Five Years.

SEC. 12. Taxes.

SEC. 13. Local Assessments.

SEC. 14. Indebtedness and Tax Rate.

SEC. 15. City Accounts.

SEC. 16. City the Local Authority for Execution of General Laws of the State.

SEC. 17. State Supervision of the City's exercise of its powers.

ART. III.

THE MAYOR.

SECTION 1. Mayor's Term of Office.
SEC. 2. Filling a Vacancy.
SEC. 3. Disability of Mayor.
SEC. 4. Removal of Mayor.
SEC. 5. Presence of Mayor and Heads of Departments at Council Meetings.
SEC. 6. Veto Power of Mayor.
SEC 7. City Budget.
SEC. 8. Compensation of Mayor.

ART. IV.

THE ADMINISTRATIVE SERVICE OF THE CITY.

SECTION 1. Appointive Officers.
SEC. 2. Civil-service Commissioners.
SEC. 3. Civil-service Regulations.
SEC. 4. Reports of Civil-service Commissioners.
SEC. 5. Duty of Public Officials to Obey Civil-service Regulations.
SEC. 6. Civil-service Commissioners to keep a Roster of the Administrative Service. Payment of Public Employees. Action to Restrain or Recover Illegal Payment of Salaries.
SEC. 7. Records of Civil-service Commissioners. Their Duty to Enforce Regulations.
SEC. 8. Power of Civil-service Commissioners to Investigate.
SECS. 9-15. Specific Prohibitions and Penalties under the Civil-service Provisions of this Act.
SEC. 16. Power of Removal.
SEC. 17. Power of Mayor to Investigate.

ART. V.

THE COUNCIL.

SECTION 1. Council to exercise Municipal Powers.

SEC. 2. Composition of Council. Members of Council shall Serve Without Pay.

SEC. 3. Council Judge of the Elections and Qualifications of Its Own Members.

SEC. 4. Ineligibility of Councilors.

SEC. 5. Council Elects Its Own Officers and Determines Its Own Rules.

SEC. 6. Quorum of Council.

SEC. 7. Meetings of Council. Proceedings of Council and Sessions of its Committees to be Public. Special Requirements as to Publication of Ordinances Granting Franchises.

SEC. 8. Council may establish Municipal Offices.

SEC. 9. Council's Powers of Investigation.

SEC. 10. Council's Powers to regulate assessments, levy taxes, and make appropriations.

SEC. 11. Council may by ordinance provide for Direct Legislation or for Minority or Proportional or other form of Representation in Municipal Elections.

ARTICLE VI.

THE CONTROLLER.

Council elects City Controller. Powers and Duties of Controller.

ARTICLE VII.

GENERAL PROVISIONS.

SEC. 1. Actions by Citizens.

SEC. 2. Municipal Elections to take place at a separate date from State or National Elections.

SEC. 3. Nominations for Elective Municipal Office to be made by petition at least thirty days before Election.

SEC. 4. Petitions.

ARTICLE I.

OF THE INCORPORATION OF CITIES.

SECTION 1. *When City may be Incorporated.*

All cities hereafter created within this State shall be organized under the provisions of this Act.* Any city or borough, or any incorporated town or village of ———— inhabitants, heretofore incorporated under the Laws of the State, may organize under this Act in the following manner:

On a petition filed in the office of [1] signed by not less than five hundred qualified voters of such corporation, or on the two-thirds vote of the legislative authority of such corporation, there shall be submitted at the next local election,[2] occurring at least thirty days after such filing or vote, the question whether or not the form of organization provided in this Act shall be the form of organization of said corporation, and in case a majority of the qualified voters thereof voting on said question, vote in favor thereof, said city, village, incorporated town, or borough shall thereupon be and become a body politic and corporate under the provisions of this Act, provided, however, that the official terms of the officers elected at the next ensuing local election, held in accordance with the provisions of this Act, shall commence, and the terms of all offices and all officers existing under such prior organization shall cease and determine[3] on the first Monday of the month succeeding such local election held under the provisions of this Act. The first election of officers of the new corporation shall take place on the first day for holding local elections provided by law, which occurs at least sixty days after the adoption of this act, provided, however, that if there be no such day

*A proper method of procedure adapted to the local needs of the State should be provided.

1 *I. e.* The office where the public records of such corporations are required to be kept, *e. g.*, city clerk's or village clerk's office.

2. The method of submission must be set forth and should be adapted to the election laws of the particular State.

3. If this should shorten the term of office contrary to constitutional provisions a different plan would be necessary.

fixed by law for holding local elections, then such first election[4] shall take place on the last Tuesday of the month following such adoption.

SEC. 2. *Annexation of Territory.*

Any city organized under the provisions of this Act may annex additional territory contiguous and adjacent to the limits of said city in the following manner, and such territory and the inhabitants thereof, when so annexed, shall become a part of said city and subject to the jurisdiction thereof.

Upon a ———— vote of the Council of the city desiring the annexation of such territory, and a petition filed in the office of the Mayor of the city signed by qualified voters of said territory in number equal to two per cent. of those voting at the last preceding local election, the question whether such territory shall be annexed shall be submitted to the qualified voters residing in said territory at the next general election held therein at least thirty days thereafter, and in case a majority of the qualified voters residing in said territory and voting on said question vote in favor of said annexation, said question shall be submitted to the legislature of the State, and, in case the legislature shall vote in favor thereof, the said territory shall thereupon be and become a part of said city, and the public roads and streets thereof become reverts of said city, and the property and liabilities of any therein existing local municipal corporation or corporations shall belong to and be assumed by said city, and the inhabitants of said territory shall become subject in all respects to the jurisdiction of the authorities of said city, and the jurisdiction of any public authority exercised theretofore in said territory shall, so far as it is in conflict with the corporate authority of such city, thereupon cease and determine.

The apportionment of taxation for the payment of the debts of

4. If there is no general law under which such an election can be held, the Act should include appropriate provisions therefor in harmony with the election system of the particular State.

such city and of the local municipal corporation or corporations theretofore existing in such annexed territory shall be adjusted by —— commissioners to be appointed by the judges of the ———— Court, who shall also, in case the territory annexed does not include the entire territory of an existing corporation, equitably apportion the property and liabilities of such corporation between it and such city. Said commissioners shall give public hearings, shall have power to compel the attendance and testimony of witnesses under oath, and the production of books and papers, and shall conduct their proceedings according to the rules that shall be established and published by the judges of said court. Any vacancy occurring in said commission shall be filled by the remaining members. The report of the commissioners, or a majority of them, shall be filed in the office of the clerk of said court, and shall be final and conclusive, unless exceptions are filed thereto within thirty days after filing. In case of exceptions, the court appointing said commission shall have power to overrule the same, and confirm said report, or to set the same aside and refer the matter back to the same, or another commission, when the same proceeding shall be had.

ARTICLE II.

OF THE POWERS OF CITIES.

SECTION 1. *Corporate Powers.*

The inhabitants of any city incorporated under this Act are hereby constituted a body politic and corporate which shall have perpetual succession, may use a common seal, sue and be sued, and, for any purpose which it deems necessary or expedient for the public interest, perform and render all public services, and acquire property within or without the city limits by purchase, gift, devise, or by condemnation proceedings, and hold, manage, and control the same.[5]

5. It should be provided that these proceedings should be conducted in accordance with the general law on the subject if there is one and it is applicable; or that the necessary proceedings should be the same as those under which other public or quasi-public corporations may act.

SEC. 2. *Powers of Ordinance.*

Every city organized under this Act shall have power to enact and to enforce all ordinances necessary to protect health, life, and property, to prevent and summarily abate and remove nuisances, and to preserve and enforce the good government, order, and security of the city and its inhabitants.

SEC. 3. *Street Powers, Water-works, Buildings, and Sewers.*

Said city shall have power to lay out, establish, open, close, alter, widen, extend, grade, care for, pave, supervise, maintain and improve streets, alleys, sidewalks, squares, parks, public places, and bridges, to vacate the same, and to regulate the use thereof, and to prescribe and regulate the height of buildings adjacent thereto or abutting thereon, and the method and style of construction of the same, to vacate and close private ways, and to construct and maintain water-works and sewers, and to do all things it may deem needful or appropriate to regulate, care for and dispose of sewage, offal, garbage, and other refuse.

SEC. 4. *Wharves, Docks, Harbors, and Ferries.*

The city shall have power to establish, erect, maintain, lease, and regulate wharves and docks, charge wharfage and dockage, regulate the use of the harbor, and establish, lease, regulate, and operate ferries, and charge tolls and ferriage.

SEC. 5. *Markets, Market-places, and Abattoirs.*

The city shall have power to establish, lease, maintain, regulate, and operate markets and market-places and abattoirs.

SEC. 6. *Charities and Correction.*

The city shall have power to establish, maintain, and regulate workhouses, houses of correction, and such other places of incarceration and reformatory institutions, and such hospitals and charitable institutions as it may deem expedient.

SEC. 7. *Fines, Penalties and Imprisonment.*

The city shall have power to enforce obedience to and observance of its ordinances and regulations by ordaining reasonable fines, penalties, and terms of imprisonment.

SEC. 8. *Schools, Museums, Libraries, and other Institutions.*

The city shall have power to establish and maintain schools, museums, libraries, and such other institutions for the instruction, enlightenment, and welfare of its inhabitants as it may deem appropriate or necessary for the public interest or advantage.

The number, duties, and salaries of teachers and other subordinate officers of such institutions shall be fixed by the officer [or board] in charge of the educational administration of the city.[6]

SEC. 9. *Minor Courts.*

The city shall have the power to establish minor courts for the enforcement of its ordinances, which shall also be vested with the civil and criminal jurisdiction of (justices of the peace).[7] The justices of such courts shall be men learned in the law, and shall be appointed by the Mayor, and may be removed by him in the same manner as officers in the subordinate administrative service of the city. No one shall be eligible to appointment as such justice unless he has been ——[8] for at least five years. Such justices shall have within the city in which they have been appointed, and in cases where the alleged crime or misdemeanor has been committed within said city, ex-

6. The Committee is of the opinion that the local schools should be under local control subject to a State supervision which compels the local standard to be fully equal to the State standard, and that so far and so rapidly as practicable this result should be accomplished. The Committee is aware, however, that there is a great diversity of practice in the different States, and that on account of the deep popular interest in education there is no branch of the public administration which on the whole has been so successful. It has therefore seemed best to leave the elaboration of the provisions of the draft relative to education to be made in accordance with the local conditions of each particular State.

7. The civil and criminal jurisdiction of justices of the peace is well defined in some States. Where it is not, some other proper officer should be designated. The intention here is to confer upon municipal judicial officers, to the exclusion of the ordinary minor State judicial officers, such minor civil and criminal jurisdiction as experience has shown should be exercised by magistrates of this class. It is probable that in some States a constitutional amendment would be required in order to enact the provisions of this section into valid law.

8. An attorney and counselor-at-law of the State, or some similar expression appropriate to the particular State.

clusive jurisdiction to issue all warrants, hear and determine all complaints, and to conduct all examinations and trials in criminal cases that may now be had by——[7], and shall have the same power and jurisdiction in such criminal cases as——[7] now have by law or as may hereafter be conferred upon——[7], and shall have exclusive jurisdiction in all cases of violations of such ordinances. Such justices shall be subject to the same liabilities, and their judgments and proceedings may be reviewed in the same manner and to the same extent as now by law provided in the case of [7]

SEC. 10. *Street and Other Franchises.*

The rights of the city in and to its water front, ferries, wharf property, land under water, public landings, wharves, docks, streets, avenues, parks, bridges, and all other public places are hereby declared to be inalienable, except by a four-fifths vote of all the members elected to the Council, approved by the Mayor; and no franchise or lease or right to use the same, either on, through, across, under, or over, and no other franchise granted by the city to any private corporation, association, or individual, shall be granted for a longer period than twenty-one years ; and, in addition to any other form of compensation, the grantee shall pay annually a sum of money, based in amount upon its gross receipts, to the city. Such grant and any contract in pursuance thereof may provide that, upon the termination of the grant, the plant as well as the property, if any, of the grantee, in the streets, avenues, and other public places shall thereupon, without further or other compensation to the grantee, or upon the payment of a fair valuation thereof, be and become the property of the city, but the grantee shall be entitled to no payment because of any valuation derived from the franchise. Every grant shall specify the mode of determining any valuation therein provided for, and shall make adequate provision by way of forfeiture of the grant or otherwise to secure efficiency of public service at reasonable rates and the

maintenance of the property in good order throughout the term of the grant. Every grantee of a franchise from the city rendering a service to be paid for wholly or in part by users of such service shall keep books of account and make stated quarterly reports in writing to the City Controller, which shall contain an accurate statement, in summarized form and also in detail, of all financial receipts from all sources and all expenditures for all purposes, together with a full statement of assets and debts, as well as such other information as to the financial condition of such grantee as the City Controller may require. Such reports shall be public records, and shall be printed as a part of the annual report of the City Controller, and said City Controller may inspect and examine, or cause to be inspected and examined, at all reasonable hours, any books of account of such grantee. Such books of account shall be kept and such reports made in accordance with forms and methods prescribed by the City Controller, which, so far as practicable, shall be uniform for all such grantees.

The city may, if it deems proper, acquire or construct, and may also operate on its own account, and may regulate or prohibit the construction or operation of railroads or other means of transit or transportation and methods for the production or transmission of heat, light, electricity, or other power, in any of their forms, by pipes, wires, or other means.

SEC. 11. *Contracts for Labor and Materials.*

No contract to which the city is a party for services rendered or to be rendered, or for goods or materials furnished or to be furnished, shall be for a longer period than five years.[9]

All contracts except for services rendered shall be made upon specifications, and shall be let in the manner to be prescribed by general ordinance.

In no case shall the contract for any material, machinery or

9. The intention of this provision is to prevent the city from entering into any long-term contracts except the issue of long-term bonds.

process which or the supply of which, is controlled by one person or company, be let with a contract for work or for other material or machinery.

No contract shall be entered into until after an appropriation has been made therefor, nor in excess of the amount appropriated.

Each contract, before being binding on the city, must be countersigned by the Controller, and charged to the proper appropriation, and whenever the contracts charged to any appropriation equal the amount thereof, no further contracts shall be countersigned by him.

SEC. 12. *Taxes.*

Within its corporate limits the city shall have the same powers of taxation as are possessed by the State. It may license and regulate all trades, occupations, and businesses.

SEC. 13. *Local Assessments.*

The city shall have power to make local improvements by special assessment, or by special taxation, or both, of property adjudged to have received special benefit, or by general taxation; the ascertainment and apportionment of the benefits derived from such local improvements shall be made in accordance with State laws. No improvement to be paid for by special assessment or by special taxation shall be undertaken without the consent of a majority in interest and number of the owners of the property to be taxed or assessed, unless the ordinance therefor shall receive on final passage the affirmative vote of three-fourths of all the members of the Council, and be approved by the Mayor after a public hearing of the persons interested, of which due notice shall be given by advertisement in the manner to be prescribed by general ordinance.

SEC. 14. *Indebtedness and Tax Rate.*

The city shall have power to borrow on the credit of the corporation, and issue bonds therefor in such amounts and form, and

on such conditions as it shall prescribe, but the credit of the city shall not in any manner be given or loaned to or in aid of any individual, association, or corporation, except that it may make suitable provision for the aid and support of its poor.

No city shall become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed [10] —per centum of the assessed valuation of the real estate within such city subject to taxation as shown by the last preceding assessment for State or city taxes; provided, however, that in determining the limitation of the city's power to incur indebtedness there shall not be included the following classes of indebtedness:

(1) Certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes, unless the same be not paid within two years from the date of issue; and all certificates of indebtedness and revenue bonds shall be provided for and payable from the taxes levied for the year in which they are issued, and shall never exceed the amount of such taxes;

(2) Or bonds authorized by the affirmative vote of two-thirds of the members of the Council, approved by the Mayor, and approved by the affirmative vote of the majority of the qualified voters of the city voting upon the question of their issuance at the next ensuing city election, for the supply of water or for other specific undertaking from which the city will derive a revenue; but from and after a period to be determined by the Council, not exceeding five years from the date of such election, whenever and for so long as such an undertaking fails to produce sufficient revenue to pay all costs of operation and administration (including interest on the city's bonds issued therefor and the cost of insurance against losses by fire, accidents, and injuries to persons) and an annual amount sufficient to pay at or before maturity all bonds issued on

10. The limitation is intended to be the one provided in the State Constitution. If there is no such constitutional provision, it should be fixed somewhere between five and ten per cent., as appears to be proper.

account of said undertaking, all such bonds outstanding shall be included in determining the limitation of the city's power to incur indebtedness, unless the principal and interest thereof be payable exclusively from the receipts of such undertaking. The City Controller shall annually report to the Council in detail the amount of the revenue from each such undertaking and whether there is any and, if so, what deficit in meeting the requirements above set forth.

Provision shall be made at the time of their issue for raising a sum of money, by taxation, sufficient to pay, as it falls due, the interest upon all city bonds not exclusively payable from the receipts of revenue-producing undertakings, and to pay and discharge the principal thereof within——— [11] years from the date of their issue; but whenever in any year the receipts from any revenue-producing undertaking shall be sufficient to pay the costs of operation and administration as above defined, and the annual amount hereinbefore required, the tax to pay the interest and provide for the principal of the bonds issued for such undertaking shall not be collected, and the same shall be paid from such receipts.

The amount to be raised by tax for city purposes upon real and personal property or either of them, in addition to providing for the principal and interest of the then outstanding bonded indebtedness shall not in the aggregate exceed in any one year —— per centum of the assessed valuation of the real and personal estate subject to taxation by such city, to be ascertained as hereinbefore prescribed in respect to the city debt.[12]

SEC. 15. *City Accounts.*

Every city shall keep books of account. It shall also make stated financial reports at least as often as once a year to the [13], in accord-

11. This period should not, in the opinion of the committee, exceed thirty years.

12. Under this section a city may issue long-term bonds, establish and maintain a sinking fund sufficient to provide for their payment at maturity; or it may have the bonds so drawn that a certain number will mature each year and be paid from the tax as collected. By the latter method the city avoids any risk incident to a sinking fund, the loss of interest on money not invested, any premiums it might pay to buy back its own bonds, and the abuses incident to large accumulations of uninvested money.

13. State Controller or other officer, or board which may exercise supervision over municipal finances.

ance with forms and methods prescribed by him, which shall be applicable to all cities within the State. Such reports shall be certified as to their correctness by said [14] or by some competent person or persons appointed by him; they shall be printed as a part of the public documents of the State, and submitted by the [14] to the Legislature at its next regular session. Such reports shall contain an accurate statement, in summarized form and also in detail, of the financial receipts of the city from all sources, and of the expenditures of the city for all purposes, together with a statement in detail of the debt of said city at the date of said report, and of the purposes for which such debt has been incurred, as well as such other information as may be required by. [14] Said [14] shall have power by himself or by some competent person or persons appointed by him, to examine into the affairs of the financial department of any city within this State. On every such examination inquiry shall be made as to the financial condition and resources of the city, and whether the requirements of the constitution and laws have been complied with, and into the methods and accuracy of the city's accounts, and as to such other matters as the said [14] may prescribe. The [14] and every such examiner appointed by him, shall have power to administer an oath to any person whose testimony may be required on any such examination, and to compel the appearance and attendance of any such person for the purpose of any such investigation and examination, and the production of books and papers. Wilful false swearing in such examinations shall be perjury, and punishable as such. A report of each such examination shall be made, and shall be a matter of public record in the office of said [14]

SEC 16. *Local Authority for Execution of State Laws.*

Within its corporate limits every city incorporated under the provisions of this Act shall be the local agent of the State govern-

14. State Controller or other officer, or board which may exercise supervision over municipal finances.

ment for the enforcement of State laws, to the exclusion of all other public officers, except so far as the contrary may be provided by general law applicable to all the cities of the State.[15]

SEC. 17. *State Supervision.*

Every city incorporated under the provisions of this Act shall, in the exercise of the powers hereby conferred, be subject to the supervision and control of such State administrative boards and officers as may be established for this purpose by general laws applicable to all cities of the State, or may be granted powers of supervision and control, by general act of the Legislature applicable to all cities within the State.[16]

ARTICLE III

THE MAYOR.

SECTION 1. *The Term of Office.*

The chief executive officer of the city shall be a Mayor, who shall be a citizen of the United States, a qualified voter residing within the city limits, and shall hold his office for two years,[17] and until his successor is elected and qualified.

SEC. 2. *Filling of Vacancy.*

Whenever a vacancy shall occur in the office of the Mayor, the President of the Council shall act as Mayor, and shall possess all the rights and powers of the Mayor, and perform all his duties until the next election, and until his successor is elected and qualified.

15. For example, the city, as a corporation, unless there were a general police system applicable to all cities in the State, would be under this section intrusted with the duty of preserving the peace.

16. For example, the State Board or Superintendent of Education, the State Board of Health, the State Board of Charities.

17. Compare Art. V., Sec. 1. The act contemplates a six years' term for a member of the Council, one-third of the members going out of office at each biennial election. The Mayor is thus elected at the same time as one-third of the Council, and presumably they will be in political accord. The Mayor and one-third of the Council have great power when acting together. They will practically control the character of the administration in many important respects. The biennial elections will enable the citizens effectively to review the conduct of the city administration; and the terms of office fixed by the Act will enable the dates of city elections to occur on the usual election days in November in years alternating with State and National elections, as is done in New York, thus avoiding two elections in the same year.

SEC. 3. *Disability of Mayor.*

During the temporary absence or disability of the Mayor the President of the Council shall act as Mayor *pro tempore*, and during such absence or disability shall possess the powers of the Mayor and perform his duties, except that he shall not appoint or remove from office any person in the administrative service of the city unless such absence or disability continues for a period of at least —— days.

SEC. 4. *Removal of Mayor.*

In case of misconduct, inability, or failure properly to perform his duties, the Mayor may be removed from office by the Governor of the State, after being given an opportunity to be heard in his defense.

The proceedings upon such removal shall be public, and a full detailed statement of the reasons for such removal shall be filed by the Governor in the office of the Secretary of State, and shall be a matter of public record. The decision of the Governor when filed with the reasons therefor shall be final. And the Governor may, pending the investigation, suspend the Mayor for a period of thirty days.

SEC. 5. *Presence of Mayor and Heads of Departments at Council Meetings.*

The Mayor and the heads of the administrative departments of the city shall have the right to be present and participate in the proceedings of the Council, but not to vote. It shall be the duty of the Mayor and of each of the heads of departments to attend the meetings of the Council when specifically requested by the Council, and to answer such questions relative to the affairs of the city under his management as may be put to him by any member of the Council.

SEC. 6. *Veto Power of Mayor.*

Every ordinance or resolution of the Council shall, before it

takes effect, be presented duly certified to the Mayor for his approval. The Mayor shall return such ordinance or resolution to the Council within ——— days after receiving it, or at the next meeting of the Council after the expiration of said ——— days; if he approve it, he shall sign it; and if he disapprove it, he shall specify his objections thereto in writing. If he do not return it with such disapproval within the time specified, it shall take effect as if he had approved it. In case of disapproval, the ordinance or resolution may be again passed within ——— days by the votes of at least ———— of all the members elected to the Council. In case an ordinance or resolution of the Council shall appropriate money, the Mayor may approve one or more of the items in such ordinance or resolution, and disapprove the others. In such case those which he shall fail to disapprove shall become effective, and those which he shall disapprove shall become effective only if again passed as above provided.

SEC. 7. *City Budget.*

It shall be the duty of the Mayor from time to time to make such recommendations to the Council as he may deem to be for the welfare of the city, and on the ——— day of ———— in each year to submit to the Council the annual budget of current expenses of the city, any item in which may be reduced or omitted by the Council; but the Council shall not increase any item in nor the total of said budget.[18]

SEC. 8. *Compensation of Mayor.*

The Mayor of any city incorporated under this Act may be paid a salary, the amount of which shall be fixed by the Council; but no Council shall change the salary of any Mayor after his election.

18. The purpose of this provision is to give the Mayor, who is the head of the administrative service, the power to make up the annual budget of current expenses, subject to the power of the Council to reduce but not to increase the proposed appropriations. Appropriations for other purposes than current expenses and for emergencies are provided for in Art. V., Sec. 10.

ARTICLE IV.

THE ADMINISTRATIVE SERVICE OF THE CITY.

SECTION 1. *Appointive Officers.*

The Mayor shall have power to appoint all heads of departments in the administrative service of the city, except the City Controller. Subject to the restrictions and limitations hereinafter contained, the Mayor shall have power to appoint all officers and employees in the subordinate administrative service of the city, and to fill all vacancies therein, except that laborers may be appointed and removed by the heads of departments in which they are employed.

SEC. 2. *Civil-service Commissioners.*

The Mayor shall appoint three or more suitable persons to be known as Municipal Civil-service Commissioners, who shall prescribe, amend, and enforce regulations for appointment to, and promotion in, and for examinations in the administrative service of the city, including the appointment and employment of laborers therein. Such Commissioners shall not hold any other paid position in the public service. The regulations and amendments thereof made under the authority of this Act, or a copy certified by the Secretary of said Commissioners, shall be received in evidence in all courts and places.

SEC. 3. *Civil-service Regulations.*

Such regulations shall, among other things, provide:

1. For the classification of the offices, places, and employments in the administrative service of the city.

Such classification shall be based on the respective duties and functions of the offices and positions affected, and on the amounts of the salary or other compensation attached thereto, and shall be arranged so as to permit the grading of offices and positions like in character in groups and subdivisions, and so as to permit

the filling of offices and positions in the higher grades, so far as practicable, through promotion.

2. For examinations, wherever practicable, to ascertain the fitness of all applicants for appointment to the administrative service of said city. Public notice shall be given of all examinations, and the Commissioners shall adopt reasonable rules for permitting the presence of representatives of the press.

No question in any examination under the regulations established as aforesaid shall relate to political or religious opinions, affiliations or services, and no appointment or selection to or removal from any office or employment within the scope of the regulations established as aforesaid, and no transfer, promotion, reduction, reward, or punishment shall be in any manner affected or influenced by such opinions, affiliations or services. Such examinations shall be practical in their character, and shall relate to those matters which will fairly test the relative fitness of the persons examined to discharge the duties of the positions to which they seek to be appointed. Such examinations, save in the case of applicants for employment as ordinary (not skilled) laborers, shall be open, competitive examinations, except where, after due efforts by previous public advertisement or other effort in case of extraordinary emergency, competition is found not to be practicable. The examination of applicants for employment as ordinary laborers shall relate to their capacity for labor and their habits as to industry and sobriety, and shall be accompanied by such physical examination and tests, competitive or otherwise, as the Commission, in its discretion, may determine.

3. For the filling of vacancies in the offices, places, and employments in the administrative service of the city which are subject to competitive examination by selection from a number not exceeding three graded highest as the result of such examination; and for the selection of laborers, from among those found qualified, on the basis of priority of application.

In the absence of an appropriate eligible list, from which appointments are to be made, and pending the preparation of such list, any office, place, or employment subject to competitive examination may be filled temporarily without such examination, but not for a longer period than thirty days. No person shall be appointed or employed under any title not appropriate to the duties to be performed, and no person shall be transferred to, or assigned to perform the duties of, any position subject to competitive examination, unless he shall have been appointed to the position from which transfer is made as the result of an open competitive examination equivalent to that required for the position to be filled, or unless he shall have served with fidelity for at least five years in a similar position. A copy of each list of eligibles, with their respective grades, shall be accessible to each person whose name appears upon such list.

4. For a period of probation not exceeding three months before an appointment or employment is made permanent.

5. For promotion from the lower grades to the higher based on merit and competition and seniority of service.

An increase in the salary or other compensation of any person holding an office, place or employment within the scope of the rules in force hereunder shall be deemed a promotion.

No public officer or employee shall be deemed or held to be excluded from the operation of this Act, or from competitive examination, nor shall competitive examination be deemed or held to be impracticable, on the ground or for the reason that any office, place or employment or any of the duties thereof, is confidential in character, or by reason of the fact that fiduciary responsibility is involved, or by reason of the fact that any bond or security is or shall be required of the appointee; provided, however, that in advance of any competitive examination for any office, place or employment, the appointing officer may, where otherwise permitted by law, publicly prescribe the amount and the

necessary details of the bond or security which shall be required to be given by any such appointee, and provided further that any surety company, the bonds of which are accepted by a Justice of ———————— Court, shall be a sufficient surety on any such bond.

SEC. 4. *Reports of Civil-service Commissioners.*

The Municipal Civil-service Commissioners shall have authority to employ a secretary and such other assistance as may be necessary for the performance of their duties as provided in this Act, and shall make reports from time to time to the Mayor, whenever said Mayor may request, of the manner in which the regulations hereinbefore provided for have been and are administered, and the result of their administration in such city, and of such other matters as said Mayor may require, and annually, and on or before the ——— day of ———————— in each year, shall make a report to the Mayor; and it shall be the duty of the Mayor to transmit either these reports, or a sufficient abstract or summary thereof to give full and clear information as to their contents, to the Council annually on or before the —— day of ————————.

SEC. 5. *Duty of Officers to Obey Regulations.*

It shall be the duty of all persons in the public service of the city to conform to and comply with said regulations and any modifications thereof made pursuant to the authority of this act, and to aid and facilitate in all proper ways the enforcement of said regulations and any modifications thereof, and the holding of all examinations which may be required under the authority of this Act by said regulations. Proper provision shall be made in the annual budget for all the expenses of the Municipal Civil-service Commissioners.

SEC. 6. *Roster of Administrative Service. Payment of Public Employees. Action to Restrain or Recover Illegal Payments.*

It shall be the duty of said Civil-service Commissioners to pre-

pare, continue, and keep in their office a complete roster of all persons other than ordinary laborers in the public service of the city. This roster shall be open to inspection at all reasonable hours. It shall show in reference to each of said persons his name, the date of his appointment to or employment in such service, his salary or compensation, the title of the place or office he holds, the nature of the duties thereof, and the date of any termination of such service. It shall be the duty of all officers of the city to give to the Civil-service Commissioners all the information which may be reasonably requested, or which the regulations established by the Civil-service Commissioners may require in aid of the preparation or continuance of said roster, and so far as practicable said roster shall state whether any and what persons are holding any and what offices or places aforesaid in violation of this act or of any regulations made thereunder. Said Civil-service Commissioners shall have access to all public records and papers, the examination of which will aid the discharge of their duty in connection with said roster. It shall be the duty of said Commissioners to certify to the City Controller the name of each person appointed or employed in the public service of the city (ordinary laborers excepted), stating in each case the title or character of the office or employment, the date of the commencement of service by virtue thereof, and the salary or other compensation paid, and also, as far as practicable, the name of each person employed in violation of this act or of the regulations established thereunder, and to certify to the said Controller in like manner every change occurring in any office or employment of the public service of the city forthwith on the occurrence of the change. No officer of said city whose duty it is to sign or countersign warrants shall draw, sign, countersign, or issue, or authorize the drawing, signing, or issuing of any warrant or order on any disbursing officer of the city for the payment of salary or compensation to any person in its public service required to be so certified

as aforesaid who is not so certified as having been appointed or employed in pursuance of this Act or of the regulations in force thereunder. Any person entitled to be certified as aforesaid may maintain a proceeding by mandamus to compel the issue of such certificate. Any sums paid contrary to the provisions of this section may be recovered from any disbursing officer of the city paying the same or signing, countersigning, drawing, or issuing, or authorizing the drawing, signing, or issuing of any warrant or order for the payment thereof, and from the sureties on his official bond in an action in the ———— Court. All moneys recovered in any action brought under the provisions of this section must, when collected, after paying all expenses of such action, be paid into the city treasury.

SEC. 7. *Records of Civil-service Commissioners. Their Duty to Enforce Regulations.*

The said Commissioners shall keep records of their proceedings; they shall make regulations for and have control of such applications, registrations, certifications, and examinations as are or may be provided for under this Act and the regulations established under their authority, and shall cause a record thereof to be kept and of the markings and gradings upon such examinations; and all recommendations of applicants for office or employment received by them, or by any officer having authority to make appointments or select employees in the public service as classified by said Commissioners, shall be kept and preserved by said Commissioners. And all such records and regulations shall, subject to such reasonable regulations as may be made by said Commissioners, be open to public inspection.

It shall be the duty of the Civil-service Commissioners to supervise the execution of this law and the regulations thereunder, and to see that the same be enforced, and they shall be responsible for correcting all abuses and irregularities occurring in the admin-

istration of said law and the regulations thereunder, and shall investigate all complaints in respect of such abuses and irregularities made to them. They shall supervise the examinations thereunder and the markings and gradings upon such examinations, and shall keep themselves well informed concerning the same in all parts of the public service to the end that such examinations, markings, and gradings shall be as uniform and just as possible.

SEC. 8. *Power of Civil-service Commissioners to Investigate.*

A majority of said Commissioners shall constitute a quorum. The said Commissioners may make investigations concerning the facts in respect to the execution of this Act, and of the regulations established under its authority, and in the course of such investigations each Commissioner and their secretary and such other assistant as they may designate shall have the power to administer oaths. Said Commissioners shall have power, for the purposes provided for in this Act, to examine into books and records, compel the production of books and papers, subpœna witnesses, administer oaths to them, and compel their attendance and examination, as though such subpœna had issued from a court of record of this State; and witnesses and officers to subpœna and secure the attendance of witnesses before the said Commissioners, shall be entitled to the same fees as are allowed to witnesses in civil cases in courts of record. Such fees need not be prepaid, but the proper disbursing officer of the city shall pay the amount thereof when the same shall have been certified by the president of the Commissioners, and duly proved by affidavit or otherwise to the satisfaction of the said officer; and all officers in the public service and their deputies, clerks, subordinates, and employees shall afford the said Commissioners all reasonable facilities in conducting their inquiries specified in this Act, and give inspection to said Commissioners of all books, papers and documents belonging or in anywise appertaining to their respective offices, and also shall

produce said books and papers, and shall attend and testify when required to do so by said Commissioners. Wilful false swearing in such investigations and examinations shall be perjury and punishable as such.

SECS. 9–15. *Specific Prohibitions and Penalties under the Civil-service Provisions of the Act.*

SEC. 9. Any commissioner, examiner, or any other person who shall wilfully or corruptly, by himself or in co-operation with one or more persons, defeat, deceive, or obstruct any person in respect to his or her right to examination or registration according to any regulations prescribed pursuant to the provisions of this Act, or who shall, wilfully or corruptly, falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined, registered, or certified according to any regulations prescribed pursuant to the provisions of this Act, or aid in so doing, or who shall wilfully or corruptly make any false representations concerning the same, or concerning the person examined, registered, or certified, or who shall wilfully or corruptly furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined, registered, or certified, or to be examined, registered, or certified, or who shall personate any other person, or permit or aid in any manner any other person to personate him, in connection with any examination or registration or application or request to be examined or registered, shall for each offense be deemed guilty of a misdemeanor.

SEC. 10. No person in the national public service or the public service of the State or any civil division thereof, including counties, cities, towns, villages, and boroughs, shall, directly or indirectly, use his authority or official influence to compel or induce any person in the public service of a city to pay or to promise to pay any political assessment, subscription, or contribution. Every

person who may have charge or control in any building, office, or room, occupied for any purpose of said public service of a city is hereby authorized to prohibit the entry of any person into the same, and he shall not knowingly permit any person to enter the same for the purpose of therein making, collecting, receiving, or giving notice of any political assessment, subscription, or contribution, and no person shall enter or remain in any said office, building, or room, or send or direct any letter or other writing thereto for the purpose of giving notice of, demanding, or collecting, nor shall any person therein give notice of, demand, collect, or receive any such assessment, subscription, or contribution; and no person shall prepare or make out, or take part in preparing or making out, any political assessment, subscription, or contribution with the intent that the same shall be sent or presented to, or collected from any person in the public service of the city, and no person shall knowingly send or present any political assessment, subscription, or contribution to or request its payment by any person in said public service.

Any person who shall be guilty of violating any provision of this section shall be deemed guilty of a misdemeanor.

SEC. 11. Whoever, being a public officer or being in nomination for, or while seeking a nomination or appointment for, any public office, shall use, or promise to use, whether directly or indirectly, any official authority or influence (whether then possessed or merely anticipated) in the way of conferring upon any person, or in order to secure or aid any person to secure any office or appointment in the public service, or any nomination, confirmation, or promotion, or increase of salary, upon the consideration or condition that the vote or political influence or action of the last-named person or any other shall be given or used in behalf of any candidate, officer or political party or association, or upon any other corrupt condition or consideration, shall be deemed guilty of bribery or an attempt at bribery. And

whoever, being a public officer or employee, or having or claiming to have any authority or influence for or affecting the nomination, public employment, confirmation, promotion, removal or increase or decrease of salary of any public officer or employee, shall corruptly use, or promise or threaten to use, any such authority or influence, directly or indirectly, in order to coerce or persuade the vote or political action of any citizen, or the removal, discharge, or promotion of any public officer or public employee, or upon any other corrupt consideration, shall be also guilty of bribery, or an attempt at bribery. And every person found guilty of such bribery, or an attempt to commit the same, as aforesaid, shall, upon conviction thereof, be liable to be punished by a fine of not less than one hundred dollars or more than three thousand dollars, or to be imprisoned not less than ten days or more than two years, or to both said fine and said imprisonment, in the discretion of the court. If the person convicted be a public officer he shall, in addition to any other punishment imposed, be deprived of his office and be ineligible to any public office or employment for —— years thereafter. The phrase "public officer" shall be held to include all public officials in this State, whether paid directly or indirectly from the public treasury of the State, or from that of any civil division thereof, including counties, cities, towns, villages, and boroughs, and whether by fees or otherwise; and the phrase "public employee" shall be held to include every person not being an officer who is paid from any said treasury.

SEC. 12. No recommendation of any person who shall apply for office or place, or for examination or registration under the provisions of this Act, or the regulations established under the authority thereof, except as to residence and as to character, and in the case of former employers as to the abilities, when said recommendation as to character and abilities is specifically required by said regulations, shall be given to or considered by any person concerned in making any examination, registration, ap-

pointment, or promotion under this Act or under the regulations established under the authority thereof. No recommendation or question under the authority of this Act shall relate to the political or religious opinions or affiliations of any person whomsoever.

SEC. 13. No person in the service of the city is for that reason under any obligation to contribute to any political fund or to render any political service, and no person shall be removed, reduced in grade or salary, or otherwise prejudiced for refusing to do so. No person in the service of the city shall discharge, or promote, or degrade, or in any manner change the official rank or compensation of any other person in said service, or promise or threaten to do so for giving or withholding, or neglecting to make any contribution of money or service or any other valuable thing for any political purpose. No person in said service shall use his official authority or influence to coerce the political action of any person or body, or to affect or interfere with any nomination, appointment, or election to public office.

SEC. 14. Whoever, after a regulation has been duly established according to the provisions of this Act, makes an appointment to office in the public service of the city or selects a person for employment therein contrary to the provisions of such regulation, or wilfully refuses or neglects otherwise to comply with, or conform to, the provisions of this Act, or violates any of such provisions, shall be guilty of a misdemeanor.

SEC. 15. Misdemeanors under the provisions of this Act shall be punishable by a fine of not less than ———— dollars nor more than ———— dollars, or by imprisonment for not longer than ————, or by both such fine and imprisonment.

SEC. 16. *Power of Removal.*

No officer or employee in the administrative service of the city shall be removed, reduced in grade or salary, or transferred because

of the religious or political beliefs or opinions of such officer or employee; nor shall any official in the administrative service of the city be removed, reduced, or transferred without first having received a written statement setting forth in detail the reasons therefor; a duplicate copy of such statement shall be filed in the office of the Civil-service Commissioners, and at the option of the official who shall have been removed, reduced, or transferred, such statement of reasons, together with the reply thereto made by the officer removed, shall be made a matter of public record in the archives of the city. Subject to the foregoing provisions of this Act, all persons in the administrative service of the city shall hold their offices without fixed terms and subject to the pleasure of the Mayor.

SEC. 17. *Mayor May Investigate.*

The Mayor may at any time, with or without notice, investigate in person or by agent or agents appointed by him for this purpose, the affairs of any department of the city government, and the official acts and conduct of any official in the administrative service of the city. For the purpose of ascertaining facts in connection with these examinations, the Mayor or the agent or agents so appointed by him shall have full power to compel the attendance and testimony of witnesses, to administer oaths, and to examine such persons as they shall deem necessary, and to compel the production of books and papers. Wilful false swearing in such investigations and examinations shall be perjury, and punishable as such.

ARTICLE V.

OF THE COUNCIL.

SECTION 1. *Council to Exercise Municipal Powers.*

There shall be a City Council which shall have full power and authority, except as otherwise provided, to exercise all powers conferred upon the city, subject to the veto of the Mayor, as hereinbefore provided.

SEC. 2. *Composition of the Council.*

The Council shall consist of [20] —— members, who shall serve without pay, one-third of whom shall be elected at each municipal election. The members of the Council shall be elected on a general ticket from the city at large, and shall serve from ——— after their election. The members of the first Council elected under the provisions of this Act shall be divided by lot into three classes, as nearly equal in number as may be, to hold office respectively for two, four, and six years, and thereafter at each municipal election there shall be elected members of the Council to take the place of outgoing members for a term of six years, and to fill for the unexpired term any vacancies that may have occurred in the respective classes.[21] Outgoing members of the Council shall be eligible for re-election.

SEC. 3. *The Council to be Judge of Election and Qualifications of Its Own Members.*

The Council shall be the judge of the election and qualifications of its own members, subject to review by the courts.

SEC. 4. *Ineligibility of Councilors.*

No member of the Council shall hold any other public office or hold any office or employment the compensation for which is paid out of public moneys; or be elected or appointed to any office created or the compensation of which is increased by the Council while he was a member thereof, until one year after the expiration of the term for which he was elected; or be interested directly or indirectly in any contract with the city; or be in the employ of any person having any contract with the city, or of any grantee of a franchise granted by the city.

20. At least nine and not more than fifty, the precise number being determined by the local conditions of each State.

21. In States where the conditions make it practicable to hold two elections at different times in the same year without subordinating local questions to issues of national or State politics, and the interest of the voters in public affairs can be sufficiently aroused to permit two vigorous political campaigns in the same year, the term of a member of the Council could be made three years, one-third of the Council being elected each year.

SEC. 5. *The Council Shall Elect Its Own Officers and Determine Its Own Rules.*

The Council shall elect its own officers; determine its own rules of procedure; may punish its members for disorderly conduct, and compel the attendance of members, and, with the concurrence of ——— of the members elected, expel a member. Any member who shall have been convicted of bribery shall thereby forfeit his office.

SEC. 6. *Quorum of the Council.*

A majority of the members of the Council elected shall constitute a quorum to do business, but a smaller number may adjourn from time to time, and may compel the attendance of absentees under such penalties as may be prescribed by ordinance.

SEC. 7. *Council Meetings.*

The Council may prescribe by ordinance the time and place of its meetings and the manner in which special meetings thereof may be called. But the Mayor may call a special meeting of the Council at any time by previous written notice mailed to the post-office address of each member of the Council at least twenty-four hours before such special meeting. The Council shall elect one of its own number as president, shall sit with open doors, shall keep a journal of its own proceedings, which shall be public and printed. All sessions of committees of the Council shall be public. The Council shall act only by ordinance or resolution, and all ordinances or resolutions, except ordinances making appropriations, shall be confined to one subject, which shall be clearly expressed in the title, and ordinances making appropriations shall be confined to the subject of appropriations. The ayes and nays shall be taken upon the passage of all ordinances or resolutions and entered upon the journal of its proceedings; and every ordinance or resolution shall require on final passage the affirmative votes of a majority of all the members.

No ordinance or resolution shall be passed finally on the day it is introduced, except in case of public emergency, and then only when requested by the Mayor and approved by the affirmative votes of three-fourths of all the members of the Council.

Except in case of such public emergency, each ordinance when introduced shall be referred to a committee and printed for the use of members, and shall not be subsequently so altered or amended as to change its original purpose. It shall be reported to the Council at the next regular meeting thereof, unless another date be designated by the Council when the reference is made, or at a subsequent meeting thereof.

Before any grant of a franchise shall be made, the proposed specific grant embodied in the form of an ordinance, with all the terms and conditions, including the provisions as to rates, fares, and charges, shall be published at the expense of the applicant for the franchise at least twice in each of two newspapers designated by the Mayor, having a general circulation in the city. Such publication shall take place at least ——— days before the final vote upon such ordinance, and such ordinance shall require the affirmative vote of at least ———— of all the members of the Council.

SEC. 8. *Council may Establish Municipal Offices.*

The Council, except as herein before provided, shall have power to establish any office that may in its opinion be necessary or expedient for the conduct of the city's business or government, and may fix its salary and duties; but no city official shall be elected by popular vote except the Mayor and the members of the Council. The incumbents of all offices established by the Council shall be appointed by the Mayor, as herein provided, except that the Council may elect its own officers.

SEC. 9. *The Council's Powers of Investigation.*

The Council, or a committee of the Council duly authorized

by it may investigate any department of the city government and the official acts and conduct of any city officer; and for the purpose of ascertaining facts in connection with such investigation, shall have full power to compel the attendance and testimony of witnesses, to administer oaths, and to examine such persons as it may deem necessary, and to compel the production of books and documents. Wilful false swearing in such investigations and examinations shall be perjury and punishable as such.

SEC. 10. *Council's Power to Regulate Assessments, Levy Taxes and Make Appropriations.*

The Council shall provide by general ordinance for the appraisement and assessment of all property subject to taxation and for the collection and enforcement of taxes and assessments and for penalties for non-payment thereof. Such taxes, assessments and penalties shall be a lien upon the property affected thereby until paid.

All taxes shall be levied and appropriations made annually, not more than sixty days nor less than thirty days before the date for holding municipal elections, except such taxes as may be levied and appropriations as may be made to provide for debts already incurred or continuing contracts already entered into. And except, also, in cases of emergency, when on a certificate signed by the Mayor and Controller that such emergency exists, a special appropriation may be made to meet the same.

Subject to the foregoing, and other provisions of this Act, the Council shall have the power to appropriate all money necessary to provide for the expenses of the city government, to make special appropriations, and to transfer to a different appropriation the unexpended balance of an appropriation already made, and not needed for the completion of the work for which such appropriation was originally made.

SEC. 11. *Direct Legislation; Minority or Proportional or Other Form of Representation in City Elections.*

The Council of any city now existing or hereafter created

within the State may, with the consent of a majority of the qualified voters of the city voting thereon at the next ensuing city election taking place not less than —— days thereafter, establish a method of direct legislation so that qualified voters of the city may submit and a majority thereof voting thereon may decide by direct vote propositions relative to city matters, and may also in the same manner establish minority or proportional or other method of representation as to elections to elective city offices.

On a petition therefor, filed in the office of the Mayor, signed by qualified voters of the city equal in number to two per cent. (which shall not be less than one thousand) of those voting at the last preceding city election, a proposition to establish a method of direct legislation or to establish minority or proportional or other method of representation as to elections to elective city offices, must be submitted to the qualified voters of the city at the next ensuing city election occurring at least —— days thereafter ; if a majority of such voters voting upon such proposition are in favor thereof, such proposition shall go at once into effect.

ARTICLE VI.

The Council to Elect City Controller ; his Powers and Duties.

The Council shall elect, and may by resolution remove, a Controller who shall have a general supervision and control of all the fiscal affairs of the city, to be exercised in the manner which may be by ordinance prescribed. It shall be his duty to keep the books of account and to make the financial reports provided for in Article II. Section 15, of this Act. His books shall also exhibit accurate and detailed statements of all moneys received and expended for account of the city by all city officers and other persons, and of the property owned by the city and the income derived therefrom. He shall also keep separate accounts of each appropriation, and of the dates, purpose, and manner of each payment therefrom.

The Controller shall keep a separate record for each grantee of a franchise from the city rendering a service to be paid for wholly or in part by users of such service, which record shall show in the case of each such grantee:—

1. The true and entire cost of construction, of equipment, of maintenance, and of the administration and operation thereof; the amount of stock issued if any; the amount of cash paid in, the number and par value of shares, the amount and character of indebtedness, if any; the rate of taxes, the dividends declared; the character and amount of all fixed charges; the allowance, if any, for interest, for wear and tear or depreciation, all amounts and sources of income;

2. The amount collected annually from the city treasury and the character and extent of the service rendered therefor to the city;

3. The amount collected annually from other users of the service and the character and extent of the service rendered therefor to them. Such books of record shall be open to public examination at any time during the business hours of the Controller's office.

The Controller shall examine and audit all bills, claims, and demands against the city, and shall promptly report in writing to the Mayor and to the Council any default or delinquency he may discover in the accounts of any city officer.

The Controller may require any person presenting for settlement an account or claim for any cause whatever against the city to be sworn or affirmed before him, touching such account or claim, and when so sworn or affirmed, to answer orally as to any facts relative to the justness of such account or claim. Wilful false swearing before him shall be perjury, and punishable as such. He shall settle and adjust all claims in favor of or against the city, and all accounts in which the city is concerned as debtor or creditor, but in adjusting and settling such claims, he shall, so far as practicable, be governed by the rules of law and principles

of equity which prevail in courts of justice. The power hereby given to settle and adjust such claims shall not be construed to give such settlement and adjustment the binding effect of a judgment or decree, nor to authorize the Controller to dispute the amount or payment of any salary established by or under the authority of any officer or department authorized to establish the same, because of failure in the due performance of his duties by such officer, except when necessary to prevent fraud.

No payment of city funds shall be made except upon draft or warrant countersigned by the Controller, who shall not countersign any such draft or warrant until he has examined and audited the claim, and found the same justly and legally due and payable, and that the payment has been legally authorized, and the money therefor has been duly appropriated, and that the appropriation has not been exhausted.

The City Controller shall, on or before the 15th day of January in each year, prepare and transmit to the City Council a report of the financial transactions of the city during the calendar year ending the 31st day of December[22] next preceding, and of its financial condition on said 31st day of December. The report shall contain an accurate statement, in summarized form, and also in detail, of the financial receipts of the city from all sources, and of the expenditures of the city for all purposes, together with a detailed statement of the debt of said city, of the purposes for which such debt had been incurred, and of the property of said city, and of the accounts of the city with grantees of franchises.

ARTICLE VII.

GENERAL PROVISIONS.

SECTION 1. *Actions by Citizens.*

Any ———— or more citizens who are householders of said city may maintain an action in the proper court to restrain the execution of any illegal, unauthorized, or fraudulent contract or agree-

22. This section assumes December 31st to be the end of the city's fiscal year.

ment on behalf of said city, and to restrain any disbursing officer of said city from paying any illegal, unauthorized, or fraudulent bills, claims, or demands against said city, or any salaries or compensation to any person in its administrative service whose appointment has not been made in pursuance of the provisions of law and the regulations in force thereunder. And in case any such illegal, unauthorized, or fraudulent bills, claims or demands, or any such salary or compensation shall have been paid, such citizens may maintain an action in the name of said city against the officer making such payment, and the party receiving the same, or either, or both, to recover the amount so paid, and such amount, after deducting all expenses of the action, shall be paid into the city treasury, provided, however, that the court may require such citizens to give security to indemnify the city against costs, unless the court shall decide that there was reasonable cause for bringing the action. The right of any householder of the city to bring an action to restrain the payment of compensation to any person appointed to or holding any office, place or employment in violation of any of the provisions of this Act, shall not be limited or denied by reason of the fact that said office, place or employment shall have been classified as, or determined to be, not subject to competitive examination; provided, however, that any judgment or injunction granted or made in any such action shall be prospective only, and shall not affect payments already made or due to such persons by the proper disbursing officers.

In case of any unsatisfied judgment or any suit or process of law against said city, any ———— or more citizens who are householders of said city shall, upon petition, accompanied by affidavit that they believe that injustice will be done to said city in said suit or judgment, be permitted to intervene and inquire into the validity of such judgment or defend said suit or action, as fully and completely as the officers of said city would by law have the right to do.

SEC. 2. *Separate City Elections.*[23]

SEC. 3. *Nominations.*

Candidates for elective city offices shall be nominated by petition signed by qualified voters of the city. The number of the signatures to such petition shall be determined by the Council of the city, but no more than fifty signatures shall be required. Such petition shall be filed in the office of the Mayor at least thirty days before the date of the election; provided, however, that in the case of the death or withdrawal of any candidate so nominated, such petition may be so filed within a less period than thirty days. The voter must vote separately for each candidate for whom he desires to vote; if the election is by ballot the Council of the city shall determine the form of ballot to be used, but the names of all candidates for the same office must be printed upon the ballot in alphabetical order under the title of such office.

SEC. 4. *Petitions.*

The petitions provided for in this Act need not be one paper, and may be printed or written, but the signatures thereto must be the autograph signatures of the persons whose names purport to be signed. To each signature the house address of the signer must be added, and the signature must be made and acknowledged or proved before an officer authorized by law to take acknowledgment and proof of deeds. The certificate of such officer under his official seal that a signature was so made and acknowledged or proved shall be sufficient proof of the genuineness of the signature for the purposes of this Act. The signing of another's name, or of a false or fictitious name, to a petition or the signing of a certificate falsely stating either that a signature was made in the presence of the officer or acknowledged or approved before him, shall be punishable as felonies.

23. No election for any city office should be held at a time coinciding with the time for holding State or national elections. Proper provisions to accomplish this result should be drawn in harmony with the general system of holding elections in the particular State

AN EXAMINATION OF THE PROPOSED MUNICIPAL PROGRAM

Delos F. Wilcox

The Committee on Municipal Program, in its survey of the municipal situation in the United States, has recognized the existence of three fundamental evils in the government of our cities:

1. The first of these evils is economic, and consists in the waste of public funds, through the multiplication of offices, the employment of inefficient officers, the payment of exorbitant prices, and the expenditure of large sums in relatively fruitless enterprises.

2. The second evil is "political," in the true sense of the term, and consists in the inadequacy of the service rendered by the city government to the people of the city and State. It is believed to be the true function of the city as a political organization so to regulate the relations of the citizens and so to master the environment of urban life that the people of the city may have the fullest possible opportunity for self-development in civilization. As a matter of fact, however, the physical, moral, and esthetic conditions, amenable to political control, are often so neglected that the true ends of associated life in the city are partially unattainable. To say nothing of rapid transit and abundant light and water, many cities are notoriously lax in the protection of life and property, and particularly in sanitary protection. This inadequacy of social service is very clearly seen in the lack of foresight so often displayed by city authorities in the laying out of streets, parks, and playgrounds, and in the provision for schools.

3. The third evil of city government is a moral one, and consists in the corrupt use of civic authority for the furtherance of individual ends. It is patent in the utilization of public funds as assets with which to pay political debts, in the barter of franchises and contracts for private remuneration of one kind or another, in the failure to enforce the laws, and sometimes even in the protection of vice and crime for a money contribution or for political support. This evil gets its chief importance, not from the direct financial loss to the city, nor from the freedom enjoyed by the vicious and criminal classes, but from the fact that it throws politics into disrepute and degrades civic ideals, so saturating public opinion with distrust and a sense of helplessness that co-operation among the people for the attainment of truly political ends is rendered well nigh impossible.

Every existing evil has one or more causes, and to destroy the evil the causes must be removed. The causes of the evils of municipal government are, many of them, plain to even the casual observer. Some, however, are more obscure, and often the obscure cause is as important as the patent one. The committee finds the following principal causes of the fundamental evils already mentioned:

I. Of the economic evil, waste of public funds.

1. The first cause is *ignorance*, which takes three forms—ordinary illiteracy, or narrowness of intellectual culture among public officials, ignorance on the part of the people of the actual processes of their government, and that species of ignorance exhibited by men possessing wide general culture when they are called upon to perform public duties of a special nature and for which they have had no special preparation.

2. A second cause of waste is *partisanship*, by which is meant,

not the legitimate adherence to political organizations that stand for different public policies in the city, but rather the introduction of irrelevant issues into the choice of city officers and the solution of city problems.

3. A third cause of waste is *State interference*, by which is meant the attempts so often made by State Legislatures, the majority of whose members are ignorant of city conditions, or at least responsible to a constituency thus ignorant, to settle local problems of government. If partisanship means the introduction of irrelevant issues, State interference means the introduction of irrelevant men to govern.

4. A fourth cause of waste is *municipal irresponsibility*, which is the counterpart of State interference, and consists in the conduct of municipal affairs without due regard to the duty that the city as a local organ of government owes to the State at large.

5. A fifth cause of waste is *indefiniteness of organization*, on account of which the incidence of responsibility is obscure and the people are unable to hold themselves and their officials to strict account for the right conduct of public affairs.

II. Of the political evil, inadequacy of service.

1. The first cause is *individualism*, an undeveloped civic consciousness, on account of which the people tend to rely upon private effort for the satisfaction of public needs, and in many cases to stigmatize legitimate co-operative civic enterprises as "socialistic" and therefore unwise and dangerous.

2. A second cause of inadequacy of service is *inadequacy of power*, the city being unable to undertake needful civic enterprises on account of the parsimonious enumeration of its powers in its charter, or on account of obstructive limitations put upon its procedure by the constitution and laws of the State.

3. A third cause of inadequacy of service is *undemocratic organization* by reason of which the people of a city are unable to make their will effective.

III. Of the moral evil, official corruption.

1. The first cause is *greed*, not the greed of politicians particularly, but the greed of people generally in a community where the struggle for life is intense and wealth takes the place of culture in popular ideals.

2. A second cause of corruption is the *lack of civic integrity;* that is to say, a deficiency in civic ideals and an absence of civic unity, due in large measure to the newness and compositeness of most American cities.

3. A third cause of corruption is the *private control of public privileges,* by which special powers are intrusted to individuals and corporations without due responsibility for their proper use.

The committee recognizes that many of these causes are such as can be removed only through long-continued processes of education and social development. There are, however, many of them inherent in our present system of laws, and it is to the removal of such through a better organization of city government in all its relations that the committee's attention has been specifically directed.

The conditions of American commonwealth government—of which the municipality is a part—are such that a program of legal reform for cities must be divided into two sections, one to be incorporated in the constitutions of the commonwealths, and one to be enacted as a part of the general laws. The committee has, therefore, drafted a constitutional amendments embodying those remedies for the evils of municipal government which, in its opinion, may properly be made a part of the fundamental law, and also

a general municipal corporations act in which these remedies are elaborated and supplemented by others not considered so fundamental as to require constitutional guarantees.

Following is an outline of remedies proposed by the committee for the several causes of municipal misgovernment already enumerated:

1. Ignorance.—To remove this cause of wastefulness in public expenditures several measures are recommended.

a. Competitive examinations to test fitness for appointment to positions in the city's administrative service. This would eliminate illiteracy and general intellectual unfitness from among office-holders. Constitutional Amendments Third, 6. Municipal Corporation Act IV.

b. Indefinite tenure of office for all members of the administrative service except the mayor. This would tend to encourage permanence in official tenure, thus leading to the acquisition of special knowledge and experience on the part of public officers. C. A. Third, 6.

c. Financial accounts and reports. A complete set of records is to be kept by the city controller, showing the city's financial transactions, and the accounts of every grantee of a public franchise, and reports are to be made to the council and the State fiscal officer. This will insure the opportunity for knowledge in regard to the financial affairs of the city, not only to the officers of the city and State, but also to the people at large. C. A. Third, 4. M. C. A. II, 15, and VI.

d. Roster of administrative service. A public list of all public employees, except ordinary laborers, with date of appointment, compensation, and other information given, is to be kept by the Civil Service Commissioners. This will give the people an oppor-

tunity to know just who the officers of the city are and how much they are paid. M. C. A. IV, 6.

2. Partisanship.—To remove, so far as possible, this cause of wastefulness and inefficiency, the following measures are proposed:

a. The separation of municipal from State and national elections. This will permit the people to settle municipal questions at other times than when State and national issues are pressing for immediate consideration. C. A. First, 3. M. C. A. V, 14.

b The requirements that the nomination of all elective city officers shall be by petition, that the voter must vote separately for each candidate for whom he desires to vote, and that the names of all candidates for the same city office shall be arranged alphabetically under the title of the office to be filled will favor freedom of nominations and make it easier when desirable to escape from the dictation of party primaries and conventions. C. A. First, 3. M. C. A. VII, 3.

c. Civil service reform and the prohibition of political assessments. This will take away from political and personal machines two chief sources of their strength, the power to reward their followers with the spoils of office and the power to replenish their treasuries with enforced contributions from the army of public servants dependent upon them for their positions. C. A. Third, 6. M. C. A. IV, 11.

3. State interference.—This prolific source of municipal difficulty will be greatly diminished by certain measures proposed in the program.

a. The main outlines of municipal government are established in the constitution itself, thus putting the city on a par with the central State government to a certain extent and preventing the

constant interference of the State Legislature in matters settled by the constitution or assigned to the municipal authorities for settlement. C. A. *entire.*

b. Limitation of special legislation. Obnoxious special legislation is made difficult by requiring for the passage of any special act an absolute two-thirds vote of the Legislature in the affirmative, to be followed by a reference of the bill to the council of the city affected for approval: sixty days are allowed for the consideration of the measure by the local council, and if at the end of that time the council has failed to signify its approval, the measure can become law only when passed a second time by an absolute two-thirds affirmative vote of the Legislature, this two-thirds to include three-fourths of all the members representing districts outside the city or cities affected. Special legislation is defined as any legislation applicable to less than all of the cities or to less than all of the inhabitants of the State. These provisions will make State interference impracticable unless the welfare of the State demands it so strongly as to make the members of the Legislature not representing the locality affected almost unanimous. C. A. Third: 7.

The grant of exclusive privileges or franchises to any private individual or corporation by special act of the State Legislature is absolutely prohibited. C. A. II.

c. General municipal corporations act. State interference in local affairs is limited by a constitutional requirement that the Legislature shall pass general laws applicable to all cities which shall by popular vote choose to be governed by them. The committee proposes as the second part of its program such a general corporations act. The existence of such a law would often do away with the necessity of special legislation, where a city wishes to be incorporated or to exercise wider powers than have been

granted to it in its existing charter. C. A. Third, 8. M. C. A. *entire.*

4. Municipal irresponsibility.—This cause of extravagance and inefficiency in city government can be met only by the recognition of the city's proper relation to the State and by the provision of an adequate system of central control. The specific measures to this end proposed in the program are three:

a. Limitation of municipal debt and tax rate. It is proposed to incorporate in the constitution a limit upon the aggregate debt which a city can incur for other than self-supporting undertakings and a limit upon the municipal tax rate for all purposes exclusive of necessary public debt charges. These limitations are placed upon the city in recognition of the fact that the resources of the State itself are crippled by municipal extravagance and to enforce upon the municipality its responsibility to the State for the moderate use of its delegated powers. C. A. Third, 2. See also M. C. A. II, 14.

b. Declaration of local agency. It is proposed to declare the city within its boundaries the exclusive local agent of the central government for the enforcement of State laws, except as may otherwise be provided for all cities alike. This measure would throw upon the city a definite responsibility, and would tend to do away with the feeling of hostility toward the State authorities which the people of cities are likely to entertain whenever the central government sends special agents among them to execute general laws. M. C. A. II, 16.

c. State supervision. It is proposed to open the way for a system of central administrative control by declaring that cities shall be subject to the supervision of such State officers or administrative boards as may be established by general laws applica-

ble to all cities. It is specifically proposed to require detailed financial reports by the city authorities to the State fiscal officer, these reports to be laid before the Legislature and published as a part of the public documents of the State. Furthermore the governor may remove the mayor after a hearing for specified reasons involving misconduct, incapacity, or negligence. C. A. Third, 4. M. C. A. II, 15, 17; III, 4.

5. Indefinite organization.—Responsibility for the right exercise of municipal powers is to be defined by the following measures of organization:

a. The mayor and members of the council are to be the only officers elected by the people, and they are to be chosen on general ticket. It is believed that this provision will make popular responsibility for the choice of good and capable officials more definite by reducing the number to be chosen at any one time and by requiring that the attention of the whole city be concentrated upon all the candidates. C. A. III, 6. M. C. A. V, 8.

b. Powers of the mayor. It is proposed to concentrate in the mayor full responsibility for the conduct of the administrative service by giving him authority to appoint and remove all city officers, except the controller, subject to the civil service regulations. He is permitted to attend council meetings and take part in the proceedings, but without a vote; and he must prepare the annual budget, from which the council may subtract, but to which it may not add. The mayor is also given the usual veto power over the acts of the council. It is believed that the large powers of the mayor will enable him to give an excellent administration if he is capable and conscientious, while the careful restrictions put upon him by the civil service provisions and the checking powers of the governor, the council, and the controller will prevent him

from stopping the machinery of government by his blunders if he is inefficient or from turning over the government to a set of rascals if he is a knave. C. A. Third, 6. M. C. A. III, IV, *entire.*

c. Powers of the council. The council is made the sole legislative authority of the city. It exercises all corporate powers not specifically assigned to some other authority. It passes all ordinances and makes all appropriations. It may establish new municipal offices and may investigate any department of the city administration. Finally, the council elects and may remove the city controller and receives his reports. Although the principle of the assignment of administrative and legislative functions to separate authorities has been adopted for the sake of defining responsibility, nevertheless the council is a body of vast powers for both construction and obstruction. It is to be remembered that municipal legislative functions increase in importance with the decrease of State interference and the establishment of municipal home rule. M. C. A. V.

d. Powers of the controller. The financial officer of the city, elected by the council for an indefinite term, is clothed with full power and responsibility for keeping the expenditure of public funds within legal channels. It is his business to audit claims, countersign all city drafts or warrants and contracts, keep the city's books, and make financial reports to the council. He may also require information concerning the financial transactions of any grantee of a public franchise, and shall receive and publish financial reports from every such grantee. C. A. III, 1. M. C. A. II, 10, 11, 14, 15, and VI.

e. Citizens' powers. In order to make it possible for the people to help in the enforcement of the laws, it is provided that a certain number of citizens who are householders, acting together, may

bring suit to enjoin the execution of any illegal contract, the payment of illegal claims, or the payment of the salaries of persons illegally appointed to office; they may also bring suit to recover money illegally paid out. M. C. A. VII, 2.

6. Individualism.—In the nature of the case the committee can offer no legal remedy for this cause of inadequacy of municipal service. It is believed that the stubborn argument of civic necessity combined with the ample powers possessed by the citizens under the proposed "Program" will gradually overcome however much of evil there is in individualistic tendencies.

7. Inadequacy of power.—The remedies proposed under this caption may all be included in the term "municipal home rule." The provisions recommended for the attainment of this end are numerous and important:

a. General grant of powers. Instead of the detailed enumeration of powers granted to the city we are to have besides the specification of the chief ones a general grant which will enable the city to meet emergencies as they arise, without seeking further legislative grants. The city may acquire, hold, and manage property. The city is to have authority to undertake all public services, including such things as the operation of street railways and ferries and the distribution of gas, water, and electricity. It is vested with power to perform and render all public services and with all powers of government subject to the limitations contained in the State constitution and to laws applicable either to all the inhabitants of the State or to all the cities of the State and to special laws as already defined. C. A. Third, 7. M. C. A. II.

b. Powers of taxation, eminent domain, and debt making. Within the corporate limits the city has the same powers of taxation as are possessed by the State; it may license and regulate all trades,

occupations, and businesses; it may levy special assessments upon property benefited to pay for local improvements. In order that its authority to undertake public service enterprises may be real, the city is given authority to acquire land for municipal purposes by purchase or condemnation within or without the corporate limits, and authority to incur unlimited indebtedness for self-supporting undertakings that produce revenue sufficient to take care of current interest and pay at maturity the principal of the debt incurred on their account. C. A. III, 2, 7. M. C. A. II, 12, 13, 14.

c. Annexation of territory. Cities shall have power to annex territory with the consent of its inhabitants subject to the approval of the State Legislature. This measure will enable the local authorities to keep the corporate boundaries of the city and the sphere of municipal service co-extensive with the natural boundaries of the city. M. C. A. I, 2.

d. Application of the general municipal corporations act. This act shall apply to those cities only which by popular vote determine to incorporate under it. In this way every city is permitted to choose whether it will accept the benefits and obligations of the general municipal system established by the Legislature, or will apply to the Legislature for a special charter, or will under certain conditions frame its own charter. M. C. A. I, 1.

c. Establishment of minor courts and municipal offices. Every city shall have power to complete its own organization by the creation of new offices and the establishment of municipal courts. Thus the city will be enabled to adapt its organization to the increasing demands upon it. C. A. III, 5. M. C. A. II, 9, V, 8.

f. Framing of charters. Any city with a population of 25,000 or more may elect a board of citizen householders to frame, under certain limitations as to the municipal organization, a charter

which, if adopted by the people, shall become the organic law of the city. This charter may be amended at intervals of not less than two years by proposals submitted to popular vote. In these provisions we have the last guaranty of municipal self-rule, by which the city becomes responsible not only for the proper administration of the laws, but also for the wise organization of the machinery of government itself. C. A. IV.

8. Undemocratic organization.—To perfect the organization of democracy in the cities, thus enabling the will of the people to become directly effective, it is proposed to make possible certain radical changes of political methods.

a. Minority or proportional representation. The committee, feeling unable to be dogmatic as to the best mode of representation in the council, proposes to leave the legislative authority of each city free to devise a suitable plan for such representation to become effective when approved by the people, and upon a duly authenticated petition therefor, a proposition to establish such a method of representation must be submitted to popular vote. C. A. III, 3. M. C. A. V, 11.

b. Direct legislation. It is also proposed to leave each city free in like manner to establish a system of direct legislation, so that qualified voters of the city may submit and a majority thereof voting thereon may decide by direct vote upon propositions relative to city matters. C. A. III, 3. M C. A. V, 11.

c. Civil service reform. The organization of democracy is to be aided by this reform in methods of appointing and promoting public officials, all of the people thus being put upon an equality and those best fitted for official duties being enabled to enter the service of the city. C. A. III, 6. M. C. A. IV, *entire.*

9. Greed.—This prolific cause of civic corruption can not be

removed by direct legal remedies, but the organization of the city government under the proposed program the direct and tangible responsibility enforceable upon the public officials, the publicity of their official acts, the ample opportunity for the citizens directly to participate in, and, if they choose, to control the conduct of public affairs will tend to diminish and make it possible to remove official corruption as a cause of municipal ills.

10. Lack of civic integrity.—This cause of corruption is also beyond the direct reach of legislative remedies, but conditions which favor the awakening of a civic conscience and make possible the establishment and enforcement of a high standard of civic conduct are created under the proposed Municipal Program. So far as the composite character of the population is responsible for the lack of civic integrity, this cause will disappear with the gradual assimilation of the foreign elements.

11. Private control of public privileges.—For this cause of corruption more tangible remedies can be suggested. The Program does not go so far as to say that the city ought not to grant any franchises or special privileges whatever. But it proposes particular safeguards to prevent the betrayal of the public interests.

a. Limitation upon franchise grants. The rights of the city in its public places are declared inalienable except by a four-fifths vote of all the members of the council approved by the mayor, and no franchise shall be granted for a longer period than twenty-one years. In this way the grant of perpetual franchises will be prevented and the corrupt grant of franchises on any conditions will be rendered difficult. C. A. III, 1. M. C. A. II, 10.

b. Publicity of grantees' accounts. Every grantee of a municipal franchise is required to furnish detailed financial reports to the city controller, thus insuring to the people and officers of

the city the opportunity to know what semi-public services cost and to hold those who perform them responsible for adequate service at reasonable rates. C. A. III, 1. M. C. A. II, 10.

c. Municipal powers. The city need not permit the private control of public privileges. It " may, if it deems proper, acquire or construct, and may also operate on its own account, and may regulate or prohibit the construction or operation of railroads or other means of transit or transportation and methods for the production of transmission of heat, light, electricity, or other power, in any of their forms, by pipes, wires, or other means." M. C. A. II, 10.

The proposed Municipal Program has taken democracy for granted, and has attempted to organize municipal government in relation to this great fact. There are those who hold that the future experience of the world will discredit democracy as a method of government, and in particular that democracy will prove itself inadequate for the solution of city problems. But at present, with the history of the past before us, the hope of humanity seems to lie in the perfection of democracy rather than in any retrogressive step, in exalting rather than in lessening popular responsibility.

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